

File No. 210745

Committee Item No. _____

Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: June 29, 2021

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

OTHER

- AB 1171 - 5/27/21
- CA State Association of Counties and League of CA Cities position
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Prepared by: Jocelyn Wong

Date: June 25, 2021

Prepared by: _____

Date: _____

1 [Supporting California State Assembly Bill No. 1171 (Garcia) - The Repeal of the
2 Spousal Rape Exception Act]

3 **Resolution supporting California State Assembly Bill No. 1171, The Repeal of the**
4 **Spousal Rape Exception Act, authored by State Assembly Member Cristina**
5 **Garcia, which would eliminate the “spousal rape exception” in the California**
6 **Penal Code (Section 262) to ensure that “spousal rape” is treated and punished**
7 **as seriously as rape of a non-spouse.**

8
9 WHEREAS, California is one of 11 states that distinguish between spousal rape
10 and other forms of sexual assault; and

11 WHEREAS, Under existing law, those convicted of spousal rape may be eligible
12 for probation instead of prison or jail, unlike individuals who are convicted for other
13 forms of sexual assault; and

14 WHEREAS, Although anyone convicted of rape is required to register as a sex
15 offender, those convicted of spousal rape must register only if the act involved the use
16 of force or violence that led to a prison sentence; and

17 WHEREAS, A person accused of raping an unconscious person is not able to
18 plea bargain, however, if the person accused is married to the unconscious person, they
19 may be able to plea bargain; and

20 WHEREAS, According to the National Coalition Against Domestic Violence
21 (NCADV), between 10-14% of married women have been or may experience rape by
22 their spouse; and

23 WHEREAS, State Assembly Bill No. 1171, The Repeal of the Spousal Rape
24 Exception Act, authored by State Assembly Member Cristina Garcia and co-sponsored
25 by California State Senator Dave Cortese, would eliminate the “spousal rape exception”

1 in the California Penal Code (Section 262) to ensure that “spousal rape” is treated and
2 punished as seriously as rape of a non-spouse; and

3 WHEREAS, The “spousal rape exception” is an antiquated law and effectively
4 allows an abuser to violate their non-consenting spouse with minimal accountability; and

5 WHEREAS, Repealing the “spousal rape exception” would ensure that all
6 abusers would be held accountable regardless of marital status; and

7 WHEREAS, Eliminating the distinction between spousal rape and other forms of
8 sexual assault is an urgent matter for victims in their pursuit of justice; and

9 WHEREAS, The San Francisco Board of Supervisors affirmed their support for
10 an earlier version of this bill, Assembly Bill No. 812, through Resolution No. 244-21;
11 now, therefore, be it

12 RESOLVED, That the San Francisco Board of Supervisors supports Assembly
13 Bill No. 1171, The Repeal of the Spousal Rape Exception Act, which would eliminate
14 the “spousal rape exception” in the California Penal Code (Section 262) to ensure that
15 “spousal rape” is treated and punished as seriously as rape of a non-spouse; and, be it

16 FURTHER RESOLVED, That the Clerk of the Board of Supervisors shall transmit
17 a copy of this Resolution to the Governor, the author of the Bill, and all members of the
18 Legislature representing the City and County of San Francisco.

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AMENDED IN ASSEMBLY MAY 27, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1171

**Introduced by Assembly Member Arambula Members
Cristina Garcia and Low**

(Principal coauthor: Senator Cortese)

*(Coauthors: Assembly Members Aguiar-Curry, Arambula,
Bauer-Kahan, Boerner Horvath, Carrillo, Cervantes, Friedman,
Petrie-Norris, Luz Rivas, Blanca Rubio, Waldron, and Wicks)*

(Coauthors: Senators Bates, Caballero, Eggman, and Gonzalez)

February 18, 2021

~~An act to add Chapter 34 (commencing with Section 7599.100) to Division 7 of Title 1 of the Government Code, relating to California Partnership for the San Joaquin Valley. An act to amend Sections 2236.1, 2966, 10186.1, and 11319.2 of the Business and Professions Code, to amend Sections 1946.7 and 1946.8 of the Civil Code, to amend Sections 1036.2, 1103, and 1107 of the Evidence Code, to amend Sections 3044 and 6930 of the Family Code, to amend Sections 13956 and 53165 of the Government Code, to amend Sections 136.2, 136.7, 209, 261, 261.6, 261.7, 264, 264.1, 264.2, 273.7, 290, 292, 667, 667.5, 667.51, 667.6, 667.61, 667.71, 667.8, 667.9, 679.02, 680, 784.7, 799, 868.5, 1048, 1127e, 1170.12, 1192.5, 1202.1, 1203.055, 1203.06, 1203.066, 1203.067, 1203.075, 1203.08, 1203.09, 1270.1, 1346.1, 1387, 1524.1, 1601, 2933.5, 2962, 3000, 3053.8, 3057, 11105.3, 11160, 12022.3, 12022.53, 12022.8, 12022.85, 13701, 13750, 13837, and 14205 of, and to repeal Section 262 of, the Penal Code, to amend Section 5164 of the Public Resources Code, to amend Section 4467 of the Vehicle Code, and to amend Sections 6500 and 15610.63 of the Welfare and Institutions Code, relating to crimes.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1171, as amended, ~~Arambula Cristina Garcia. California Partnership for the San Joaquin Valley. Rape of a spouse.~~

Existing law defines rape as an act of sexual intercourse accomplished with a person not the spouse of the perpetrator under certain circumstances, including where the victim is incapable of giving legal consent because of a mental disorder or developmental or physical disability, where the victim is not aware of the essential characteristics of the act due to the perpetrator's fraudulent representation that the act serves a professional purpose, and where the victim submits to the act under the belief that the perpetrator is someone known to the victim other than the perpetrator, and the perpetrator intentionally and fraudulently induces that belief.

Existing law separately defines rape of a spouse as an act of sexual intercourse accomplished with the spouse of the perpetrator under similar circumstances as nonspousal rape, except that spousal rape does not include acts of sexual intercourse accomplished under the specific circumstances described above.

This bill would repeal the provisions relating to spousal rape and make conforming changes, thereby making an act of sexual intercourse accomplished with a spouse punishable as rape if the act otherwise meets the definition of rape. By changing the definition of a crime, this bill would impose a state-mandated local program.

Existing law authorizes an employer to request from the Department of Justice records of all convictions or any arrest pending adjudication for specified offenses for a person who applies for a license, employment, or volunteer position, in which the person would have supervisory or disciplinary power over a minor and requires the employer to notify the parent or guardian of a child if a person with specified convictions will have supervisory or disciplinary power over that child. Existing law exempts certain convictions, including spousal rape, from that notification requirement.

This bill would remove the exemption for spousal rape or any other felony conviction and would instead exempt only misdemeanor convictions from that notification.

The bill would make numerous conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Existing law establishes public-private partnerships within the state for various purposes. By executive order in 2005, and continued in existence by executive orders in 2006, 2008, and 2010, the California Partnership for the San Joaquin Valley was established as a public-private partnership to, among other things, identify projects and programs that will improve the economic vitality of the San Joaquin Valley.

This bill would enact the California Partnership for the San Joaquin Valley Act of 2021, which would establish in statute the California Partnership for the San Joaquin Valley for the same purposes. The bill would incorporate language of the executive orders to, among other things, require the partnership to identify projects and programs that will improve the economic vitality of the San Joaquin Valley. The bill would require the partnership, on and after January 1, 2023, to post a progress report on its internet website and send a letter informing the Legislature of that posting.

This bill would make legislative findings and declarations as to the necessity of a special statute for the San Joaquin Valley.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes. State-mandated local program: ~~no~~yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2236.1 of the Business and Professions
2 Code is amended to read:
3 2236.1. (a) A physician and surgeon’s certificate shall be
4 suspended automatically during any time that the holder of the
5 certificate is incarcerated after conviction of a felony, regardless
6 of whether the conviction has been appealed. The Division of
7 Medical Quality shall, immediately upon receipt of the certified
8 copy of the record of conviction, determine whether the certificate
9 of the physician and surgeon has been automatically suspended
10 by virtue of ~~his or her~~ *the physician and surgeon’s* incarceration,
11 and if so, the duration of that suspension. The division shall notify
12 the physician and surgeon of the license suspension and of ~~his or~~

1 her *the* right to elect to have the issue of penalty heard as provided
2 in this section.

3 (b) Upon receipt of the certified copy of the record of conviction,
4 if after a hearing it is determined therefrom that the felony of which
5 the licensee was convicted was substantially related to the
6 qualifications, functions, or duties of a physician and surgeon, the
7 Division of Medical Quality shall suspend the license until the
8 time for appeal has elapsed, if ~~no~~ *an* appeal has *not* been taken, or
9 until the judgment of conviction has been affirmed on appeal or
10 has otherwise become final, and until further order of the division.
11 The issue of substantial relationship shall be heard by an
12 administrative law judge from the Medical Quality Hearing Panel
13 sitting alone or with a panel of the division, in the discretion of
14 the division.

15 (c) Notwithstanding subdivision (b), a conviction of any crime
16 referred to in Section 2237, or a conviction of Section 187, 261,
17 ~~262, 288, or 288~~ *former Section 262*, of the Penal Code, shall be
18 conclusively presumed to be substantially related to the
19 qualifications, functions, or duties of a physician and surgeon and
20 ~~no~~ *a* hearing shall *not* be held on this issue. Upon its own motion
21 or for good cause shown, the division may decline to impose or
22 may set aside the suspension when it appears to be in the interest
23 of justice to do so, with due regard to maintaining the integrity of
24 and confidence in the medical profession.

25 (d) (1) Discipline may be ordered in accordance with Section
26 2227, or the Division of Licensing may order the denial of the
27 license when the time for appeal has elapsed, the judgment of
28 conviction has been affirmed on appeal, or an order granting
29 probation is made suspending the imposition of sentence,
30 irrespective of a subsequent order under Section 1203.4 of the
31 Penal Code allowing the person to withdraw ~~his or her~~ *the* plea of
32 guilty and to enter a plea of not guilty, setting aside the verdict of
33 guilty, or dismissing the accusation, complaint, information, or
34 indictment.

35 (2) The issue of penalty shall be heard by an administrative law
36 judge from the Medical Quality Hearing Panel sitting alone or with
37 a panel of the division, in the discretion of the division. The hearing
38 shall not be had until the judgment of conviction has become final
39 or, irrespective of a subsequent order under Section 1203.4 of the
40 Penal Code, an order granting probation has been made suspending

1 the imposition of sentence; except that a licensee may, at ~~his or~~
2 ~~her~~ *the licensee's* option, elect to have the issue of penalty decided
3 before those time periods have elapsed. Where the licensee so
4 elects, the issue of penalty shall be heard in the manner described
5 in this section at the hearing to determine whether the conviction
6 was substantially related to the qualifications, functions, or duties
7 of a physician and surgeon. If the conviction of a licensee who has
8 made this election is overturned on appeal, any discipline ordered
9 pursuant to this section shall automatically cease. ~~Nothing in this~~
10 *This subdivision shall does not* prohibit the division from pursuing
11 disciplinary action based on any cause other than the overturned
12 conviction.

13 (e) The record of the proceedings resulting in the conviction,
14 including a transcript of the testimony therein, may be received in
15 evidence.

16 (f) The other provisions of this article setting forth a procedure
17 for the suspension or revocation of a physician and surgeon's
18 certificate shall not apply to proceedings conducted pursuant to
19 this section.

20 *SEC. 2. Section 2966 of the Business and Professions Code is*
21 *amended to read:*

22 2966. (a) A psychologist's license shall be suspended
23 automatically during any time that the holder of the license is
24 incarcerated after conviction of a felony, regardless of whether the
25 conviction has been appealed. The board shall, immediately upon
26 receipt of the certified copy of the record of conviction, determine
27 whether the license of the psychologist has been automatically
28 suspended by virtue of ~~his or her~~ *the psychologist's* incarceration,
29 and if so, the duration of that suspension. The board shall notify
30 the psychologist of the license suspension and of ~~his or her~~ *the*
31 right to elect to have the issue of penalty heard as provided in this
32 section.

33 (b) Upon receipt of the certified copy of the record of conviction,
34 if after a hearing it is determined therefrom that the felony of which
35 the licensee was convicted was substantially related to the
36 qualifications, functions, or duties of a psychologist, the board
37 shall suspend the license until the time for appeal has elapsed, if
38 ~~no~~ *an* appeal has *not* been taken, or until the judgment of conviction
39 has been affirmed on appeal or has otherwise become final, and
40 until further order of the board. The issue of substantial relationship

1 shall be heard by an administrative law judge sitting alone or with
2 a panel of the board, in the discretion of the board.

3 (c) Notwithstanding subdivision (b), a conviction of any crime
4 referred to in Section 187, 261, ~~262~~, 288, or ~~288~~ *former Section*
5 *262*, of the Penal Code, *Code* shall be conclusively presumed to
6 be substantially related to the qualifications, functions, or duties
7 of a psychologist and ~~no~~ a hearing shall *not* be held on this issue.
8 Upon its own motion or for good cause shown, the board may
9 decline to impose or may set aside the suspension when it appears
10 to be in the interest of justice to do so, with due regard to
11 maintaining the integrity of and confidence in the psychology
12 profession.

13 (d) (1) Discipline or the denial of the license may be ordered
14 in accordance with Section 2961, or the board may order the denial
15 of the license when the time for appeal has elapsed, the judgment
16 of conviction has been affirmed on appeal, or an order granting
17 probation is made suspending the imposition of sentence,
18 irrespective of a subsequent order under Section 1203.4 of the
19 Penal Code allowing the person to withdraw ~~his or her~~ a plea of
20 guilty and to enter a plea of not guilty, setting aside the verdict of
21 guilty, or dismissing the accusation, complaint, information, or
22 indictment.

23 (2) The issue of penalty shall be heard by an administrative law
24 judge sitting alone or with a panel of the board, in the discretion
25 of the board. The hearing shall not be commenced until the
26 judgment of conviction has become final or, irrespective of a
27 subsequent order under Section 1203.4 of the Penal Code, an order
28 granting probation has been made suspending the imposition of
29 sentence; except that a licensee may, at ~~his or her~~ *the licensee's*
30 option, elect to have the issue of penalty decided before those time
31 periods have elapsed. Where the licensee so elects, the issue of
32 penalty shall be heard in the manner described in this section at
33 the hearing to determine whether the conviction was substantially
34 related to the qualifications, functions, or duties of a psychologist.
35 If the conviction of a licensee who has made this election is
36 overturned on appeal, any discipline ordered pursuant to this
37 section shall automatically cease. ~~Nothing in this~~ *This* subdivision
38 ~~shall~~ *does not* prohibit the board from pursuing disciplinary action
39 based on any cause other than the overturned conviction.

1 (e) The record of the proceedings resulting in the conviction,
2 including a transcript of the testimony therein, may be received in
3 evidence.

4 *SEC. 3. Section 10186.1 of the Business and Professions Code*
5 *is amended to read:*

6 10186.1. (a) A license or an endorsement of the department
7 shall be suspended automatically during any time that the licensee
8 is incarcerated after conviction of a felony, regardless of whether
9 the conviction has been appealed. The department shall,
10 immediately upon receipt of the certified copy of the record of
11 conviction, determine whether the license or endorsement has been
12 automatically suspended by virtue of the licensee's incarceration,
13 and if so, the duration of that suspension. The department shall
14 notify the licensee of the suspension and of ~~his or her~~ *the* right to
15 elect to have the issue of penalty heard as provided in subdivision
16 (d).

17 (b) If after a hearing before an administrative law judge from
18 the Office of Administrative Hearings it is determined that the
19 felony for which the licensee was convicted was substantially
20 related to the qualifications, functions, or duties of a licensee, the
21 commissioner upon receipt of the certified copy of the record of
22 conviction, shall suspend the license or endorsement until the time
23 for appeal has elapsed, if ~~no~~ *an* appeal has *not* been taken, or until
24 the judgment of conviction has been affirmed on appeal or has
25 otherwise become final, and until further order of the department.

26 (c) Notwithstanding subdivision (b), a conviction of a charge
27 of violating any federal statute or regulation or any statute or
28 regulation of this state regulating dangerous drugs or controlled
29 substances, or a conviction of Section 187, 261, ~~262~~, 288, or ~~288~~
30 *former Section 262*, of the Penal Code, shall be conclusively
31 presumed to be substantially related to the qualifications, functions,
32 or duties of a licensee and ~~no~~ *a* hearing shall *not* be held on this
33 issue. However, upon its own motion or for good cause shown,
34 the commissioner may decline to impose or may set aside the
35 suspension when it appears to be in the interest of justice to do so,
36 with due regard to maintaining the integrity of, and confidence in,
37 the practice regulated by the department.

38 (d) (1) Discipline may be ordered against a licensee in
39 accordance with the laws and regulations of the department when
40 the time for appeal has elapsed, the judgment of conviction has

1 been affirmed on appeal, or an order granting probation is made
 2 suspending the imposition of sentence, irrespective of a subsequent
 3 order under Section 1203.4 of the Penal Code allowing the person
 4 to withdraw ~~his or her~~ a plea of guilty and to enter a plea of not
 5 guilty, setting aside the verdict of guilty, or dismissing the
 6 accusation, complaint, information, or indictment.

7 (2) The issue of penalty shall be heard by an administrative law
 8 judge from the Office of Administrative Hearings. The hearing
 9 shall not be held until the judgment of conviction has become final
 10 or, irrespective of a subsequent order under Section 1203.4 of the
 11 Penal Code, an order granting probation has been made suspending
 12 the imposition of sentence, except that a licensee may, at ~~his or~~
 13 ~~her~~ *the licensee's* option, elect to have the issue of penalty decided
 14 before those time periods have elapsed. Where the licensee so
 15 elects, the issue of penalty shall be heard in the manner described
 16 in subdivision (b) at the hearing to determine whether the
 17 conviction was substantially related to the qualifications, functions,
 18 or duties of a licensee. If the conviction of a licensee who has made
 19 this election is overturned on appeal, any discipline ordered
 20 pursuant to this section shall automatically cease. ~~Nothing in this~~
 21 *This* subdivision ~~shall~~ *does not* prohibit the department from
 22 pursuing disciplinary action based on any cause other than the
 23 overturned conviction.

24 (e) The record of the proceedings resulting in a conviction,
 25 including a transcript of the testimony in those proceedings, may
 26 be received in evidence.

27 (f) Any other ~~provision of~~ law setting forth a procedure for the
 28 suspension or revocation of a license or endorsement issued by
 29 the department shall not apply to proceedings conducted pursuant
 30 to this section.

31 *SEC. 4. Section 11319.2 of the Business and Professions Code*
 32 *is amended to read:*

33 11319.2. (a) A license of a licensee or a certificate of a
 34 registrant shall be suspended automatically during any time that
 35 the licensee or registrant is incarcerated after conviction of a felony,
 36 regardless of whether the conviction has been appealed. The office
 37 shall, immediately upon receipt of the certified copy of the record
 38 of conviction, determine whether the license of the licensee or
 39 certificate of the registrant has been automatically suspended by
 40 virtue of the licensee's or registrant's incarceration, and if so, the

1 duration of that suspension. The office shall notify the licensee or
2 registrant in writing of the license or certificate suspension and of
3 ~~his or her~~ *the* right to elect to have the issue of penalty heard as
4 provided in subdivision (d).

5 (b) If after a hearing before an administrative law judge from
6 the Office of Administrative Hearings it is determined that the
7 felony for which the licensee or registrant was convicted was
8 substantially related to the qualifications, functions, or duties of a
9 licensee or registrant, the director upon receipt of the certified copy
10 of the record of conviction, shall suspend the license or certificate
11 until the time for appeal has elapsed, if ~~no~~ *an* appeal has *not* been
12 taken, or until the judgment of conviction has been affirmed on
13 appeal or has otherwise become final, and until further order of
14 the director.

15 (c) Notwithstanding subdivision (b), a conviction of a charge
16 of violating any federal statute or regulation or any statute or
17 regulation of this state regulating dangerous drugs or controlled
18 substances, or a conviction of Section 187, 261, ~~262~~, 288, or ~~288~~
19 *former Section 262*, of the Penal Code, shall be conclusively
20 presumed to be substantially related to the qualifications, functions,
21 or duties of a licensee or registrant and ~~no~~ *a* hearing shall *not* be
22 held on this issue. However, upon its own motion or for good cause
23 shown, the director may decline to impose or may set aside the
24 suspension when it appears to be in the interest of justice to do so,
25 with due regard to maintaining the integrity of, and confidence in,
26 the practice regulated by the office.

27 (d) (1) Discipline may be ordered against a licensee or registrant
28 in accordance with the laws and regulations of the office when the
29 time for appeal has elapsed, the judgment of conviction has been
30 affirmed on appeal, or an order granting probation is made
31 suspending the imposition of sentence, irrespective of a subsequent
32 order under Section 1203.4 of the Penal Code allowing the person
33 to withdraw ~~his or her~~ *a* plea of guilty and to enter a plea of not
34 guilty, setting aside the verdict of guilty, or dismissing the
35 accusation, complaint, information, or indictment.

36 (2) The issue of penalty shall be heard by an administrative law
37 judge from the Office of Administrative Hearings. The hearing
38 shall not be had until the judgment of conviction has become final
39 or, irrespective of a subsequent order under Section 1203.4 of the
40 Penal Code, an order granting probation has been made suspending

1 the imposition of sentence, except that a licensee or registrant may,
 2 at ~~his~~ *the licensee's* or ~~her~~ *registrant's* option, elect to have the
 3 issue of penalty decided before those time periods have elapsed.
 4 Where the licensee or registrant so elects, the issue of penalty shall
 5 be heard in the manner described in subdivision (b) at the hearing
 6 to determine whether the conviction was substantially related to
 7 the qualifications, functions, or duties of a licensee or registrant.
 8 If the conviction of a licensee or registrant who has made this
 9 election is overturned on appeal, any discipline ordered pursuant
 10 to this section shall automatically cease. ~~Nothing in this~~ *This*
 11 ~~subdivision shall~~ *does not* prohibit the office from pursuing
 12 disciplinary action based on any cause other than the overturned
 13 conviction.

14 (e) The record of the proceedings resulting in a conviction,
 15 including a transcript of the testimony in those proceedings, may
 16 be received in evidence.

17 (f) Any other ~~provision of~~ law setting forth a procedure for the
 18 suspension or revocation of a license or certificate issued by the
 19 office shall not apply to proceedings conducted pursuant to this
 20 section.

21 *SEC. 5. Section 1946.7 of the Civil Code, as Amended by Stats.*
 22 *2020, Ch. 205, Sec. 1, is amended to read:*

23 1946.7. (a) A tenant may notify the landlord that the tenant
 24 intends to terminate the tenancy if the tenant, a household member,
 25 or an immediate family member was the victim of an act that
 26 constitutes any of the following:

27 (1) Domestic violence as defined in Section 6211 of the Family
 28 Code.

29 (2) Sexual assault as defined in Section 261, 261.5, ~~262~~, 286,
 30 287, or 289 of the Penal Code.

31 (3) Stalking as defined in Section 1708.7.

32 (4) Human trafficking as defined in Section 236.1 of the Penal
 33 Code.

34 (5) Abuse of an elder or a dependent adult as defined in Section
 35 15610.07 of the Welfare and Institutions Code.

36 (6) A crime that caused bodily injury or death.

37 (7) A crime that included the exhibition, drawing, brandishing,
 38 or use of a firearm or other deadly weapon or instrument.

39 (8) A crime that included the use of force against the victim or
 40 a threat of force against the victim.

1 (b) A notice to terminate a tenancy under this section shall be
2 in writing, with one of the following attached to the notice:

3 (1) A copy of a temporary restraining order, emergency
4 protective order, or protective order lawfully issued pursuant to
5 Part 3 (commencing with Section 6240) or Part 4 (commencing
6 with Section 6300) of Division 10 of the Family Code, Section
7 136.2 of the Penal Code, Section 527.6 of the Code of Civil
8 Procedure, or Section 213.5 or 15657.03 of the Welfare and
9 Institutions Code that protects the tenant, household member, or
10 immediate family member from further domestic violence, sexual
11 assault, stalking, human trafficking, abuse of an elder or a
12 dependent adult, or any act or crime listed in subdivision (a).

13 (2) A copy of a written report by a peace officer employed by
14 a state or local law enforcement agency acting in the peace officer’s
15 official capacity stating that the tenant, household member, or
16 immediate family member has filed a report alleging that the tenant,
17 the household member, or the immediate family member is a victim
18 of an act or crime listed in subdivision (a).

19 (3) (A) Documentation from a qualified third party based on
20 information received by that third party while acting in the third
21 party’s professional capacity to indicate that the tenant, household
22 member, or immediate family member is seeking assistance for
23 physical or mental injuries or abuse resulting from an act or crime
24 listed in subdivision (a).

25 (B) The documentation shall contain, in substantially the same
26 form, the following:

27

28 **Tenant Statement and Qualified Third Party Statement**
29 **under Civil Code Section 1946.7**

30

31 Part I. Statement By Tenant

32

33 I, [insert name of tenant], state as follows:

34

35 I, or a member of my household or immediate family, have been a victim of:
36 [insert one or more of the following: domestic violence, sexual assault, stalking,
37 human trafficking, elder abuse, dependent adult abuse, or a crime that caused
38 bodily injury or death, a crime that included the exhibition, drawing,
39 brandishing, or use of a firearm or other deadly weapon or instrument, or a

1 crime that included the use of force against the victim or a threat of force
2 against the victim.]

3
4 The most recent incident(s) happened on or about:
5 [insert date or dates.]

6
7 The incident(s) was/were committed by the following person(s), with these
8 physical description(s), if known and safe to provide:
9 [if known and safe to provide, insert name(s) and physical description(s).]

10
11 _____
12 (signature of tenant) (date)

13
14 Part II. Qualified Third Party Statement

15
16 I, [insert name of qualified third party], state as follows:

17
18 My business address and phone number are:
19 [insert business address and phone number.]

- 20
21 Check and complete one of the following:
- 22 ___ I meet the requirements for a sexual assault counselor provided in Section
23 1035.2 of the Evidence Code and I am either engaged in an office, hospital,
24 institution, or center commonly known as a rape crisis center described in that
25 section or employed by an organization providing the programs specified in
26 Section 13835.2 of the Penal Code.
 - 27 ___ I meet the requirements for a domestic violence counselor provided in
28 Section 1037.1 of the Evidence Code and I am employed, whether financially
29 compensated or not, by a domestic violence victim service organization, as
30 defined in that section.
 - 31 ___ I meet the requirements for a human trafficking caseworker provided in
32 Section 1038.2 of the Evidence Code and I am employed, whether financially
33 compensated or not, by an organization that provides programs specified in
34 Section 18294 of the Welfare and Institutions Code or in Section 13835.2 of
35 the Penal Code.
 - 36 ___ I meet the definition of “victim of violent crime advocate” provided in
37 Section 1947.6 of the Civil Code and I am employed, whether financially
38 compensated or not, by a reputable agency or organization that has a
39 documented record of providing services to victims of violent crime or provides

1 those services under the auspices or supervision of a court or a law enforcement
2 or prosecution agency.

3 ____ I am licensed by the State of California as a:

4 [insert one of the following: physician and surgeon, osteopathic physician and
5 surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social
6 worker, licensed marriage and family therapist, or licensed professional clinical
7 counselor.] and I am licensed by, and my license number is:

8 [insert name of state licensing entity and license number.]

9

10 The person who signed the Statement By Tenant above stated to me that the
11 person, or a member of the person’s household or immediate family, is a victim
12 of:

13 [insert one or more of the following: domestic violence, sexual assault, stalking,
14 human trafficking, elder abuse, dependent adult abuse, or a crime that caused
15 physical injury, emotional injury and the threat of physical injury, or death.]

16 The person further stated to me the incident(s) occurred on or about the date(s)
17 stated above.

18

19

20 I understand that the person who made the Statement By Tenant may use this
21 document as a basis for terminating a lease with the person’s landlord.

22

23

24 _____ (signature of qualified third party) _____ (date)

25

26

27 (C) The documentation may be signed by a person who meets
28 the requirements for a sexual assault counselor, domestic violence
29 counselor, a human trafficking caseworker, or a victim of violent
30 crime advocate only if the documentation displays the letterhead
31 of the office, hospital, institution, center, or organization, as
32 appropriate, that engages or employs, whether financially
33 compensated or not, this counselor, caseworker, or advocate.

34 (4) Any other form of documentation that reasonably verifies
35 that the crime or act listed in subdivision (a) occurred.

36 (c) If the tenant is terminating tenancy pursuant to subdivision
37 (a) because an immediate family member is a victim of an eligible
38 act or crime listed in subdivision (a) and that tenant did not live
39 in the same household as the immediate family member at the time
40 of the act or crime, and no part of the act or crime occurred within

1 the dwelling unit or within 1,000 feet of the dwelling unit of the
2 tenant, the tenant shall attach to the notice and other documentation
3 required by subdivision (b) a written statement stating all of the
4 following:

5 (1) The tenant’s immediate family member was a victim of an
6 act or crime listed in subdivision (a).

7 (2) The tenant intends to relocate as a result of the tenant’s
8 immediate family member being a victim of an act or crime listed
9 in subdivision (a).

10 (3) The tenant is relocating to increase the safety, physical
11 well-being, emotional well-being, psychological well-being, or
12 financial security of the tenant or of the tenant’s immediate family
13 member as a result of the act or crime.

14 (d) The notice to terminate the tenancy shall be given within
15 180 days of the date that any order described in paragraph (1) of
16 subdivision (b) was issued, within 180 days of the date that any
17 written report described in paragraph (2) of subdivision (b) was
18 made, within 180 days of the date that a crime described in
19 paragraph (6), (7), or (8) of subdivision (a) occurred, or within the
20 time period described in Section 1946.

21 (e) If notice to terminate the tenancy is provided to the landlord
22 under this section, the tenant shall be responsible for payment of
23 rent for no more than 14 calendar days following the giving of the
24 notice, or for any shorter appropriate period as described in Section
25 1946 or the lease or rental agreement. The tenant shall be released
26 from any rent payment obligation under the lease or rental
27 agreement without penalty. If the premises are relet to another
28 party prior to the end of the obligation to pay rent, the rent owed
29 under this subdivision shall be prorated.

30 (f) Notwithstanding any law, a landlord shall not require a tenant
31 who terminates a lease or rental agreement pursuant to this section
32 to forfeit any security deposit money or advance rent paid due to
33 that termination. A tenant who terminates a rental agreement
34 pursuant to this section shall not be considered for any purpose,
35 by reason of the termination, to have breached the lease or rental
36 agreement. Existing law governing the security deposit shall apply.

37 (g) This section does not relieve a tenant, other than the tenant
38 who is, or who has a household member or immediate family
39 member who is, a victim of an act or crime listed in subdivision

1 (a) and members of that tenant’s household, from their obligations
2 under the lease or rental agreement.

3 ~~(h) (1) “Household member,” as used in this section,~~

4 (h) *For purposes of this sections the following definitions apply:*

5 (1) *“Household member” means a member of the tenant’s*
6 *family who lives in the same household as the tenant.*

7 ~~(2) “Qualified third party,” as used in this section, means a~~
8 ~~health practitioner, domestic violence counselor, as defined in~~
9 ~~Section 1037.1 of the Evidence Code, a sexual assault counselor,~~
10 ~~as defined in Section 1035.2 of the Evidence Code, or a human~~
11 ~~trafficking caseworker, as defined in Section 1038.2 of the~~
12 ~~Evidence Code.~~

13 ~~(3)~~

14 ~~(2) “Health practitioner,” as used in this section, practitioner”~~
15 ~~means a physician and surgeon, osteopathic physician and surgeon,~~
16 ~~psychiatrist, psychologist, registered nurse, licensed clinical social~~
17 ~~worker, licensed marriage and family therapist, or licensed~~
18 ~~professional clinical counselor.~~

19 ~~(4)~~

20 ~~(3) “Immediate family member,” as used in this section,~~
21 ~~member” means the parent, stepparent, spouse, child, child-in-law,~~
22 ~~stepchild, or sibling of the tenant, or any person living in the~~
23 ~~tenant’s household at the time the crime or act listed in subdivision~~
24 ~~(a) occurred who has a relationship with the tenant that is~~
25 ~~substantially similar to that of a family member.~~

26 ~~(4) “Qualified third party” means a health practitioner,~~
27 ~~domestic violence counselor, as defined in Section 1037.1 of the~~
28 ~~Evidence Code, a sexual assault counselor, as defined in Section~~
29 ~~1035.2 of the Evidence Code, or a human trafficking caseworker,~~
30 ~~as defined in Section 1038.2 of the Evidence Code.~~

31 ~~(5) “Victim of violent crime advocate,” as used in this section,~~
32 ~~advocate” means a person who is employed, whether financially~~
33 ~~compensated or not, for the purpose of rendering advice or~~
34 ~~assistance to victims of violent crimes for a reputable agency or~~
35 ~~organization that has a documented record of providing services~~
36 ~~to victims of violent crime or provides those services under the~~
37 ~~auspices or supervision of a court or a law enforcement or~~
38 ~~prosecution agency.~~

- 1 (i) (1) A landlord shall not disclose any information provided
2 by a tenant under this section to a third party unless the disclosure
3 satisfies any one of the following:
- 4 (A) The tenant consents in writing to the disclosure.
 - 5 (B) The disclosure is required by law or order of the court.
- 6 (2) A landlord's communication to a qualified third party who
7 provides documentation under paragraph (3) of subdivision (b) to
8 verify the contents of that documentation is not disclosure for
9 purposes of this subdivision.
- 10 (j) An owner or an owner's agent shall not refuse to rent a
11 dwelling unit to an otherwise qualified prospective tenant or refuse
12 to continue to rent to an existing tenant solely on the basis that the
13 tenant has previously exercised the tenant's rights under this section
14 or has previously terminated a tenancy because of the
15 circumstances described in subdivision (a).
- 16 *SEC. 6. Section 1946.8 of the Civil Code is amended to read:*
17 1946.8. (a) For purposes of this section:
- 18 (1) "Individual in an emergency" means a person who believes
19 that immediate action is required to prevent or mitigate the loss or
20 impairment of life, health, or property.
 - 21 (2) "Occupant" means ~~any~~ a person residing in a dwelling unit
22 with the tenant. "Occupant" includes lodgers as defined in Section
23 1946.5.
 - 24 (3) "Penalties" means the following:
 - 25 (A) The actual or threatened assessment of fees, fines, or
26 penalties.
 - 27 (B) The actual or threatened termination of a tenancy or the
28 actual or threatened failure to renew a tenancy.
 - 29 (C) Subjecting a tenant to inferior terms, privileges, and
30 conditions of tenancy in comparison to tenants who have not sought
31 law enforcement assistance or emergency assistance.
 - 32 (4) "Resident" means a member of the tenant's household or
33 any other occupant living in the dwelling unit with the consent of
34 the tenant.
 - 35 (5) "Victim of abuse" includes:
 - 36 (A) A victim of domestic violence as defined in Section 6211
37 of the Family Code.
 - 38 (B) A victim of elder or dependent adult abuse as defined in
39 Section 15610.07 of the Welfare and Institutions Code.

1 (C) A victim of human trafficking as described in Section 236.1
2 of the Penal Code.

3 (D) A victim of sexual ~~assault~~ means *assault, meaning* a victim
4 of any act made punishable by Section 261, ~~262~~, 264.1, 285, 286,
5 288, 288a, or 289 of the Penal Code.

6 (E) A victim of stalking as described in Section 1708.7 of this
7 code or Section 646.9 of the Penal Code.

8 (6) “Victim of crime” means any victim of a misdemeanor or
9 felony.

10 (b) Any provision in a rental or lease agreement for a dwelling
11 unit that prohibits or limits, or threatens to prohibit or limit, a
12 tenant’s, resident’s, or other person’s right to summon law
13 enforcement assistance or emergency assistance as, or on behalf
14 of, a victim of abuse, a victim of crime, or an individual in an
15 emergency, if the tenant, resident, or other person believes that
16 the law enforcement assistance or emergency assistance is
17 necessary to prevent or address the perpetration, escalation, or
18 exacerbation of the abuse, crime, or emergency, shall be void as
19 contrary to public policy.

20 (c) A landlord shall not impose, or threaten to impose, penalties
21 on a tenant or resident who exercises the tenant’s or resident’s
22 right to summon law enforcement assistance or emergency
23 assistance as, or on behalf of, a victim of abuse, a victim of crime,
24 or an individual in an emergency, based on the person’s belief that
25 the assistance is necessary, as described in subdivision (b). A
26 landlord shall not impose, or threaten to impose, penalties on a
27 tenant or resident as a consequence of a person who is not a resident
28 or tenant summoning law enforcement assistance or emergency
29 assistance on the tenant’s, resident’s, or other person’s behalf,
30 based on the person’s belief that the assistance is necessary.

31 (d) Documentation is not required to establish belief for purposes
32 of subdivision (b) or (c), but belief may be established by
33 documents such as those described in Section 1161.3 of the Code
34 of Civil Procedure.

35 (e) Any waiver of the provisions of this section is contrary to
36 public policy and is void and unenforceable.

37 (f) (1) In an action for unlawful detainer, a tenant, resident, or
38 occupant may raise, as an affirmative defense, that the landlord or
39 owner violated this section.

1 (2) There is a rebuttable presumption that a tenant, resident, or
2 occupant has established an affirmative defense under this
3 subdivision if the landlord or owner files a complaint for unlawful
4 detainer within 30 days of a resident, tenant, or other person
5 summoning law enforcement assistance or emergency assistance
6 and the complaint is based upon a notice that alleges that the act
7 of summoning law enforcement assistance or emergency assistance
8 as, or on behalf of, a victim of abuse, a victim of crime, or an
9 individual in an emergency constitutes a rental agreement violation,
10 lease violation, or a nuisance. A reference to a person summoning
11 law enforcement in a notice that is the basis for a complaint for
12 unlawful detainer that is necessary to describe conduct that is
13 alleged to constitute a violation of a rental agreement or lease is
14 not, in itself, an allegation for purposes of this paragraph.

15 (3) A landlord or owner may rebut the presumption described
16 in paragraph (2) by demonstrating that a reason other than the
17 summoning of law enforcement or emergency assistance as, or on
18 behalf of, a victim of abuse, a victim of crime, or an individual in
19 an emergency was a substantial motivating factor for filing the
20 complaint.

21 (g) In addition to other remedies provided by law, a violation
22 of this section entitles a tenant, a resident, or other aggrieved person
23 to seek injunctive relief prohibiting the landlord from creating or
24 enforcing policies in violation of this section, or from imposing
25 or threatening to impose penalties against the tenant, resident, or
26 other aggrieved person based on summoning law enforcement or
27 emergency assistance as, or on behalf of, a victim of abuse, a victim
28 of crime, or an individual in an emergency.

29 (h) ~~Nothing in this~~ *This section shall be construed as permitting*
30 *does not permit* an injunction to be entered that would prohibit the
31 filing of an unlawful detainer action.

32 (i) This section does not limit a landlord's exercise of the
33 landlord's other rights under a lease or rental agreement, or under
34 other law pertaining to the hiring of property, with regard to matters
35 that are not addressed by this section.

36 *SEC. 7. Section 1036.2 of the Evidence Code is amended to*
37 *read:*

38 1036.2. As used in this article, "sexual assault" includes all of
39 the following:

40 (a) Rape, as defined in Section 261 of the Penal Code.

1 (b) Unlawful sexual intercourse, as defined in Section 261.5 of
2 the Penal Code.

3 (c) Rape in concert with force and violence, as defined in Section
4 264.1 of the Penal Code.

5 ~~(d) Rape of a spouse, as defined in Section 262 of the Penal~~
6 ~~Code.~~

7 ~~(e)~~

8 (d) Sodomy, as defined in Section 286 of the Penal Code, except
9 a violation of subdivision (e) of that section.

10 ~~(f)~~

11 (e) A violation of Section 288 of the Penal Code.

12 ~~(g)~~

13 (f) Oral copulation, as defined in Section 287 of, or former
14 Section 288a of, the Penal Code, except a violation of subdivision
15 (e) of those sections.

16 ~~(h)~~

17 (g) Sexual penetration, as defined in Section 289 of the Penal
18 Code.

19 ~~(i)~~

20 (h) Annoying or molesting a child under ~~18~~, *18 years of age*,
21 as defined in Section 647a of the Penal Code.

22 ~~(j)~~

23 (i) Any attempt to commit any of the ~~above acts~~. *acts listed in*
24 *this section.*

25 *SEC. 8. Section 1103 of the Evidence Code is amended to read:*

26 1103. (a) In a criminal action, evidence of the character or a
27 trait of character (in the form of an opinion, evidence of reputation,
28 or evidence of specific instances of conduct) of the victim of the
29 crime for which the defendant is being prosecuted is not made
30 inadmissible by Section 1101 if the evidence is:

31 (1) Offered by the defendant to prove conduct of the victim in
32 conformity with the character or trait of character.

33 (2) Offered by the prosecution to rebut evidence adduced by
34 the defendant under paragraph (1).

35 (b) In a criminal action, evidence of the defendant's character
36 for violence or trait of character for violence (in the form of an
37 opinion, evidence of reputation, or evidence of specific instances
38 of conduct) is not made inadmissible by Section 1101 if the
39 evidence is offered by the prosecution to prove conduct of the
40 defendant in conformity with the character or trait of character and

1 is offered after evidence that the victim had a character for violence
2 or a trait of character tending to show violence has been adduced
3 by the defendant under paragraph (1) of subdivision (a).

4 (c) (1) Notwithstanding any other provision of this code to the
5 contrary, and except as provided in this subdivision, in any
6 prosecution under Section ~~261, 262, 261~~ or 264.1 of the Penal
7 Code, or under Section 286, 287, or 289 of, or former Section 288a
8 of, the Penal Code, or for assault with intent to commit, attempt
9 to commit, or conspiracy to commit a crime defined in any of those
10 sections, except where the crime is alleged to have occurred in a
11 local detention facility, as defined in Section 6031.4, or in a state
12 prison, as defined in Section 4504, opinion evidence, reputation
13 evidence, and evidence of specific instances of the complaining
14 witness' sexual conduct, or any of that evidence, is not admissible
15 by the defendant in order to prove consent by the complaining
16 witness.

17 (2) Notwithstanding paragraph (3), evidence of the manner in
18 which the victim was dressed at the time of the commission of the
19 offense ~~shall is not be~~ admissible when offered by either party on
20 the issue of consent in any prosecution for an offense specified in
21 paragraph (1), unless the evidence is determined by the court to
22 be relevant and admissible in the interests of justice. The proponent
23 of the evidence shall make an offer of proof outside the hearing
24 of the jury. The court shall then make its determination and at that
25 time, state the reasons for its ruling on the record. For the purposes
26 of this paragraph, "manner of dress" does not include the condition
27 of the victim's clothing before, during, or after the commission of
28 the offense.

29 (3) Paragraph (1) ~~shall does not be applicable~~ *apply* to evidence
30 of the complaining witness' sexual conduct with the defendant.

31 (4) If the prosecutor introduces evidence, including testimony
32 of a witness, or the complaining witness as a witness gives
33 testimony, and that evidence or testimony relates to the
34 complaining witness' sexual conduct, the defendant may
35 cross-examine the witness who gives the testimony and offer
36 relevant evidence limited specifically to the rebuttal of the evidence
37 introduced by the prosecutor or given by the complaining witness.

38 (5) ~~Nothing in this subdivision shall be construed to~~ *This*
39 *sections does not make* inadmissible any evidence offered to attack

1 the credibility of the complaining witness as provided in Section
2 782.

3 (6) As used in this section, “complaining witness” means the
4 alleged victim of the crime charged, the prosecution of which is
5 subject to this subdivision.

6 *SEC. 9. Section 1107 of the Evidence Code is amended to read:*

7 1107. (a) In a criminal action, expert testimony is admissible
8 by either the prosecution or the defense regarding intimate partner
9 battering and its effects, including the nature and effect of physical,
10 emotional, or mental abuse on the beliefs, perceptions, or behavior
11 of victims of domestic violence, except when offered against a
12 criminal defendant to prove the occurrence of the act or acts of
13 abuse which form the basis of the criminal charge.

14 (b) The foundation shall be sufficient for admission of this expert
15 testimony if the proponent of the evidence establishes its relevancy
16 and the proper qualifications of the expert witness. Expert opinion
17 testimony on intimate partner battering and its effects shall not be
18 considered a new scientific technique whose reliability is unproven.

19 (c) For purposes of this section, “abuse” is defined in Section
20 6203 of the Family Code, and “domestic violence” is defined in
21 Section 6211 of the Family Code and may include acts defined in
22 Section 242, subdivision (e) of Section 243, ~~Section 262~~, 261,
23 273.5, 273.6, 422, or 653m of the Penal Code.

24 (d) This section is intended as a rule of evidence only and no
25 substantive change affecting the Penal Code is intended.

26 (e) This section shall be known, and may be cited, as the Expert
27 Witness Testimony on Intimate Partner Battering and Its Effects
28 Section of the Evidence Code.

29 (f) The changes in this section that become effective on January
30 1, 2005, are not intended to impact any existing decisional law
31 regarding this section, and that decisional law should apply equally
32 to this section as it refers to “intimate partner battering and its
33 effects” in place of “battered women’s syndrome.”

34 *SEC. 10. Section 3044 of the Family Code is amended to read:*

35 3044. (a) Upon a finding by the court that a party seeking
36 custody of a child has perpetrated domestic violence within the
37 previous five years against the other party seeking custody of the
38 child, or against the child or the child’s siblings, or against any
39 person in subparagraph (C) of paragraph (1) of subdivision (b) of
40 Section 3011 with whom the party has a relationship, there is a

1 rebuttable presumption that an award of sole or joint physical or
2 legal custody of a child to a person who has perpetrated domestic
3 violence is detrimental to the best interest of the child, pursuant
4 to Sections 3011 and 3020. This presumption may only be rebutted
5 by a preponderance of the evidence.

6 (b) To overcome the presumption set forth in subdivision (a),
7 the court shall find that paragraph (1) is satisfied and shall find
8 that the factors in paragraph (2), on balance, support the legislative
9 findings in Section 3020.

10 (1) The perpetrator of domestic violence has demonstrated that
11 giving sole or joint physical or legal custody of a child to the
12 perpetrator is in the best interest of the child pursuant to Sections
13 3011 and 3020. In determining the best interest of the child, the
14 preference for frequent and continuing contact with both parents,
15 as set forth in subdivision (b) of Section 3020, or with the
16 noncustodial parent, as set forth in paragraph (1) of subdivision
17 (a) of Section 3040, may not be used to rebut the presumption, in
18 whole or in part.

19 (2) Additional factors:

20 (A) The perpetrator has successfully completed a batterer's
21 treatment program that meets the criteria outlined in subdivision
22 (c) of Section 1203.097 of the Penal Code.

23 (B) The perpetrator has successfully completed a program of
24 alcohol or drug abuse counseling, if the court determines that
25 counseling is appropriate.

26 (C) The perpetrator has successfully completed a parenting
27 class, if the court determines the class to be appropriate.

28 (D) The perpetrator is on probation or parole, and has or has
29 not complied with the terms and conditions of probation or parole.

30 (E) The perpetrator is restrained by a protective order or
31 restraining order, and has or has not complied with its terms and
32 conditions.

33 (F) The perpetrator of domestic violence has committed further
34 acts of domestic violence.

35 (c) For purposes of this section, a person has "perpetrated
36 domestic violence" when the person is found by the court to have
37 intentionally or recklessly caused or attempted to cause bodily
38 injury, or sexual assault, or to have placed a person in reasonable
39 apprehension of imminent serious bodily injury to that person or
40 to another, or to have engaged in behavior involving, but not

1 limited to, threatening, striking, harassing, destroying personal
2 property, or disturbing the peace of another, for which a court may
3 issue an ex parte order pursuant to Section 6320 to protect the
4 other party seeking custody of the child or to protect the child and
5 the child's siblings.

6 (d) (1) For purposes of this section, the requirement of a finding
7 by the court shall be satisfied by, among other things, and not
8 limited to, evidence that a party seeking custody has been convicted
9 within the previous five years, after a trial or a plea of guilty or no
10 contest, of a crime against the other party that comes within the
11 definition of domestic violence contained in Section 6211 and of
12 abuse contained in Section 6203, including, but not limited to, a
13 crime described in subdivision (e) of Section 243 of, or Section
14 261, ~~262~~, 273.5, 422, or 646.9 of, *or former Section 262 of*, the
15 Penal Code.

16 (2) The requirement of a finding by the court shall also be
17 satisfied if a court, whether that court hears or has heard the child
18 custody proceedings or not, has made a finding pursuant to
19 subdivision (a) based on conduct occurring within the previous
20 five years.

21 (e) When a court makes a finding that a party has perpetrated
22 domestic violence, the court may not base its findings solely on
23 conclusions reached by a child custody evaluator or on the
24 recommendation of the Family Court Services staff, but shall
25 consider any relevant, admissible evidence submitted by the parties.

26 (f) (1) It is the intent of the Legislature that this subdivision be
27 interpreted consistently with the decision in *Jaime G. v. H.L.* (2018)
28 25 Cal.App.5th 794, which requires that the court, in determining
29 that the presumption in subdivision (a) has been overcome, make
30 specific findings on each of the factors in subdivision (b).

31 (2) If the court determines that the presumption in subdivision
32 (a) has been overcome, the court shall state its reasons in writing
33 or on the record as to why paragraph (1) of subdivision (b) is
34 satisfied and why the factors in paragraph (2) of subdivision (b),
35 on balance, support the legislative findings in Section 3020.

36 (g) In an evidentiary hearing or trial in which custody orders
37 are sought and where there has been an allegation of domestic
38 violence, the court shall make a determination as to whether this
39 section applies prior to issuing a custody order, unless the court
40 finds that a continuance is necessary to determine whether this

1 section applies, in which case the court may issue a temporary
 2 custody order for a reasonable period of time, provided the order
 3 complies with Section 3011, including, but not limited to,
 4 subdivision (e), and Section 3020.

5 (h) In a custody or restraining order proceeding in which a party
 6 has alleged that the other party has perpetrated domestic violence
 7 in accordance with the terms of this section, the court shall inform
 8 the parties of the existence of this section and shall give them a
 9 copy of this section prior to custody mediation in the case.

10 *SEC. 11. Section 6930 of the Family Code is amended to read:*

11 6930. (a) A minor who is 12 years of age or older and who
 12 states that the minor is injured as a result of intimate partner
 13 violence may consent to medical care related to the diagnosis or
 14 treatment of the injury and the collection of medical evidence with
 15 regard to the alleged intimate partner violence.

16 (b) (1) For purposes of this section, “intimate partner violence”
 17 means an intentional or reckless infliction of bodily harm that is
 18 perpetrated by a person with whom the minor has or has had a
 19 sexual, dating, or spousal relationship.

20 (2) This section does not apply when a minor is an alleged victim
 21 of rape, as defined in Section 261 ~~or 262~~ of the Penal Code, in
 22 which case Section 6927 shall apply, and does not apply when a
 23 minor is alleged to have been sexually assaulted, as described in
 24 Section 6928, in which case that section shall apply.

25 (c) If the health practitioner providing treatment believes that
 26 the injuries described in subdivision (a) require a report pursuant
 27 to Section 11160 of the Penal Code, the health practitioner shall
 28 do both of the following:

- 29 (1) Inform the minor that the report will be made.
- 30 (2) Attempt to contact the minor’s parent or guardian and inform
 31 them of the report. The health practitioner shall note in the minor’s
 32 treatment record the date and time of the attempt to contact the
 33 parent or guardian and whether the attempt was successful or
 34 unsuccessful. This paragraph does not apply if the health
 35 practitioner reasonably believes that the minor’s parent or guardian
 36 committed the intimate partner violence on the minor.

37 *SEC. 12. Section 13956 of the Government Code is amended*
 38 *to read:*

39 13956. Notwithstanding Section 13955, a person shall not be
 40 eligible for compensation under the following conditions:

1 (a) An application may be denied, in whole or in part, if the
2 board finds that denial is appropriate because of the nature of the
3 victim's or other applicant's involvement in the events leading to
4 the crime, or the involvement of the person whose injury or death
5 gives rise to the application.

6 (1) Factors that may be considered in determining whether the
7 victim or derivative victim was involved in the events leading to
8 the qualifying crime include, but are not limited to:

9 (A) The victim or derivative victim initiated the qualifying
10 crime, or provoked or aggravated the suspect into initiating the
11 qualifying crime.

12 (B) The qualifying crime was a reasonably foreseeable
13 consequence of the conduct of the victim or derivative victim.

14 (C) The victim or derivative victim was committing a crime
15 that could be charged as a felony and reasonably lead to ~~him or~~
16 ~~her~~ *the victim* being victimized. However, committing a crime
17 shall not be considered involvement if the victim's injury or death
18 occurred as a direct result of a crime committed in violation of
19 Section 261, ~~262~~, 273.5, or ~~273.5~~ *former Section 262* of, or for a
20 crime of unlawful sexual intercourse with a minor in violation of
21 subdivision (d) of Section 261.5 of, the Penal Code.

22 (2) If the victim is determined to have been involved in the
23 events leading to the qualifying crime, factors that may be
24 considered to mitigate or overcome involvement include, but are
25 not limited to:

26 (A) The victim's injuries were significantly more serious than
27 reasonably could have been expected based on the victim's level
28 of involvement.

29 (B) A third party interfered in a manner not reasonably
30 foreseeable by the victim or derivative victim.

31 (C) The board shall consider the victim's age, physical
32 condition, and psychological state, as well as any compelling health
33 and safety concerns, in determining whether the application should
34 be denied pursuant to this section. The application of a derivative
35 victim of domestic violence under 18 years of age or derivative
36 victim of trafficking under 18 years of age shall not be denied on
37 the basis of the denial of the victim's application under this
38 subdivision.

39 (b) (1) An application shall be denied if the board finds that
40 the victim or, if compensation is sought by, or on behalf of, a

1 derivative victim, either the victim or derivative victim failed to
2 cooperate reasonably with a law enforcement agency in the
3 apprehension and conviction of a criminal committing the crime.
4 In determining whether cooperation has been reasonable, the board
5 shall consider the victim's or derivative victim's age, physical
6 condition, and psychological state, cultural or linguistic barriers,
7 any compelling health and safety concerns, including, but not
8 limited to, a reasonable fear of retaliation or harm that would
9 jeopardize the well-being of the victim or the victim's family or
10 the derivative victim or the derivative victim's family, and giving
11 due consideration to the degree of cooperation of which the victim
12 or derivative victim is capable in light of the presence of any of
13 these factors. A victim of domestic violence shall not be determined
14 to have failed to cooperate based on ~~his or her~~ *the victim's* conduct
15 with law enforcement at the scene of the crime. Lack of cooperation
16 shall also not be found solely because a victim of sexual assault,
17 domestic violence, or human trafficking delayed reporting the
18 qualifying crime.

19 (2) An application for a claim based on domestic violence shall
20 not be denied solely because a police report was not made by the
21 victim. The board shall adopt guidelines that allow the board to
22 consider and approve applications for assistance based on domestic
23 violence relying upon evidence other than a police report to
24 establish that a domestic violence crime has occurred. Factors
25 evidencing that a domestic violence crime has occurred may
26 include, but are not limited to, medical records documenting
27 injuries consistent with allegations of domestic violence, mental
28 health records, or that the victim has obtained a permanent
29 restraining order.

30 (3) An application for a claim based on a sexual assault shall
31 not be denied solely because a police report was not made by the
32 victim. The board shall adopt guidelines that allow it to consider
33 and approve applications for assistance based on a sexual assault
34 relying upon evidence other than a police report to establish that
35 a sexual assault crime has occurred. Factors evidencing that a
36 sexual assault crime has occurred may include, but are not limited
37 to, medical records documenting injuries consistent with allegations
38 of sexual assault, mental health records, or that the victim received
39 a sexual assault examination.

1 (4) An application for a claim based on human trafficking as
2 defined in Section 236.1 of the Penal Code shall not be denied
3 solely because ~~no~~ a police report was *not* made by the victim. The
4 board shall adopt guidelines that allow the board to consider and
5 approve applications for assistance based on human trafficking
6 relying upon evidence other than a police report to establish that
7 a human trafficking crime ~~as defined in Section 236.1 of the Penal~~
8 ~~Code~~ has occurred. That evidence may include any reliable
9 corroborating information approved by the board, including, but
10 not limited to, the following:

11 (A) A Law Enforcement Agency Endorsement issued pursuant
12 to Section ~~236.2~~ 236.5 of the Penal Code.

13 (B) A human trafficking caseworker, as identified in Section
14 1038.2 of the Evidence Code, has attested by affidavit that the
15 individual was a victim of human trafficking.

16 (5) (A) An application for a claim by a military personnel victim
17 based on a sexual assault by another military personnel shall not
18 be denied solely because it was not reported to a superior officer
19 or law enforcement at the time of the crime.

20 (B) Factors that the board shall consider for purposes of
21 determining if a claim qualifies for compensation include, but are
22 not limited to, the evidence of the following:

23 (i) Restricted or unrestricted reports to a military victim
24 advocate, sexual assault response coordinator, chaplain, attorney,
25 or other military personnel.

26 (ii) Medical or physical evidence consistent with sexual assault.

27 (iii) A written or oral report from military law enforcement or
28 a civilian law enforcement agency concluding that a sexual assault
29 crime was committed against the victim.

30 (iv) A letter or other written statement from a sexual assault
31 counselor, as defined in Section 1035.2 of the Evidence Code,
32 licensed therapist, or mental health counselor, stating that the
33 victim is seeking services related to the allegation of sexual assault.

34 (v) A credible witness to whom the victim disclosed the details
35 that a sexual assault crime occurred.

36 (vi) A restraining order from a military or civilian court against
37 the perpetrator of the sexual assault.

38 (vii) Other behavior by the victim consistent with sexual assault.

39 (C) For purposes of this subdivision, the sexual assault at issue
40 shall have occurred during military service, including deployment.

1 (D) For purposes of this subdivision, the sexual assault may
 2 have been committed off base.

3 (E) For purposes of this subdivision, a “perpetrator” means an
 4 individual who is any of the following at the time of the sexual
 5 assault:

6 (i) An active duty military personnel from the United States
 7 Army, Navy, Marine Corps, Air Force, or Coast Guard.

8 (ii) A civilian employee of any military branch specified in
 9 clause (i), military base, or military deployment.

10 (iii) A contractor or agent of a private military or private security
 11 company.

12 (iv) A member of the California National Guard.

13 (F) For purposes of this subdivision, “sexual assault” means an
 14 offense included in Section 261, ~~262~~, 264.1, 286, 287, formerly
 15 288a, or Section 289 of the Penal Code, as of ~~the date the act that~~
 16 ~~added this paragraph was enacted.~~ *January 1, 2015.*

17 (c) (1) Notwithstanding Section 13955, ~~no~~ a person who is
 18 convicted of a violent felony listed in subdivision (c) of Section
 19 667.5 of the Penal Code ~~may~~ *shall not* be granted compensation
 20 until that person has been discharged from probation or has been
 21 released from a correctional institution and has been discharged
 22 from parole, or has been discharged from postrelease community
 23 supervision or mandatory supervision, if any, for that violent crime.
 24 ~~In no case Compensation shall compensation~~ *not* be granted to an
 25 applicant pursuant to this chapter during any period of time the
 26 applicant is held in a correctional ~~institution,~~ *institution* or while
 27 an applicant is required to register as a sex offender pursuant to
 28 Section 290 of the Penal Code.

29 (2) A person who has been convicted of a violent felony listed
 30 in subdivision (c) of Section 667.5 of the Penal Code may apply
 31 for compensation pursuant to this chapter at any time, but the award
 32 of that compensation may not be considered until the applicant
 33 meets the requirements for compensation set forth in paragraph
 34 (1).

35 *SEC. 13. Section 53165 of the Government Code is amended*
 36 *to read:*

37 53165. (a) For purposes of this section:

38 (1) “Individual in an emergency” means a person who believes
 39 that immediate action is required to prevent or mitigate the loss or
 40 impairment of life, health, or property.

1 (2) “Local agency” means a county, city, whether general law
2 or chartered, city and county, town, housing authority, municipal
3 corporation, district, political subdivision, or any board,
4 commission, or agency thereof, or other local public agency.

5 (3) “Occupant” means ~~any~~ a person residing in a dwelling unit
6 with the tenant. “Occupant” includes a lodger as defined in Section
7 1946.5 of the Civil Code.

8 (4) “Penalty” means the following:

9 (A) The actual or threatened assessment of fees, fines, or
10 penalties.

11 (B) The actual or threatened termination of a tenancy or the
12 actual or threatened failure to renew a tenancy.

13 (C) The actual or threatened revocation, suspension, or
14 nonrenewal of a rental certificate, license, or permit.

15 (D) The designation or threatened designation as a nuisance
16 property or as a perpetrator of criminal activity under local law,
17 or imposition or threatened imposition of a similar designation.

18 (E) Subjecting a tenant to inferior terms, privileges, and
19 conditions of tenancy in comparison to tenants who have not sought
20 law enforcement assistance or emergency assistance.

21 (5) “Resident” means a member of the tenant’s household or
22 any other occupant living in the dwelling unit with the consent of
23 the tenant.

24 (6) “Tenant” means tenant, subtenant, lessee, or sublessee.

25 (7) “Victim of abuse” includes:

26 (A) A victim of domestic violence as defined in Section 6211
27 of the Family Code.

28 (B) A victim of elder or dependent adult abuse as defined in
29 Section 15610.07 of the Welfare and Institutions Code.

30 (C) A victim of human trafficking as described in Section 236.1
31 of the Penal Code.

32 (D) A victim of sexual assault means a victim of any act made
33 punishable by Section 261, ~~262~~, 264.1, 285, 286, 288, 288a, or
34 289 of the Penal Code.

35 (E) A victim of stalking as described in Section 1708.7 of the
36 Civil Code or Section 646.9 of the Penal Code.

37 (8) “Victim of crime” means ~~any~~ a victim of a misdemeanor or
38 felony.

39 (b) A local agency shall not promulgate, enforce, or implement
40 any ordinance, rule, policy, or regulation, that authorizes, or

1 requires the imposition, or threatened imposition, of a penalty
 2 against a resident, owner, tenant, landlord, or other person as a
 3 consequence of law enforcement assistance or emergency
 4 assistance being summoned by, or on behalf of, a victim of abuse,
 5 a victim of crime, or an individual in an emergency.

6 (c) If a local agency violates this section, a resident, tenant,
 7 owner, landlord, or other person may obtain the following:

8 (1) A court order requiring the local agency to cease and desist
 9 the unlawful practice.

10 (2) A court order rendering null and void any ordinance, rule,
 11 policy, or regulation that violates this section.

12 (3) Other equitable relief as the court may deem appropriate.

13 (d) This section preempts any local ordinance, rule, policy, or
 14 regulation insofar as it is inconsistent with this section, irrespective
 15 of the effective date of the ordinance, rule, policy, or regulation.

16 *SEC. 14. Section 136.2 of the Penal Code is amended to read:*

17 136.2. (a) (1) Upon a good cause belief that harm to, or
 18 intimidation or dissuasion of, a victim or witness has occurred or
 19 is reasonably likely to occur, a court with jurisdiction over a
 20 criminal matter may issue orders, including, but not limited to, the
 21 following:

22 (A) An order issued pursuant to Section 6320 of the Family
 23 Code.

24 (B) An order that a defendant shall not violate any provision of
 25 Section 136.1.

26 (C) An order that a person before the court other than a
 27 defendant, including, but not limited to, a subpoenaed witness or
 28 other person entering the courtroom of the court, shall not violate
 29 any provision of Section 136.1.

30 (D) An order that a person described in this section shall have
 31 no communication whatsoever with a specified witness or a victim,
 32 except through an attorney under reasonable restrictions that the
 33 court may impose.

34 (E) An order calling for a hearing to determine if an order—as
 35 described in subparagraphs (A) to (D), inclusive, should be issued.

36 (F) (i) An order that a particular law enforcement agency within
 37 the jurisdiction of the court provide protection for a victim, witness,
 38 or both, or for immediate family members of a victim or a witness
 39 who reside in the same household as the victim or witness or within
 40 reasonable proximity of the victim’s or witness’ household, as

1 determined by the court. The order shall not be made without the
2 consent of the law enforcement agency except for limited and
3 specified periods of time and upon an express finding by the court
4 of a clear and present danger of harm to the victim or witness or
5 immediate family members of the victim or witness.

6 (ii) For purposes of this paragraph, “immediate family members”
7 include the spouse, children, or parents of the victim or witness.

8 (G) (i) An order protecting a victim or witness of violent crime
9 from all contact by the defendant, or contact, with the intent to
10 annoy, harass, threaten, or commit acts of violence, by the
11 defendant. The court or its designee shall transmit orders made
12 under this paragraph to law enforcement personnel within one
13 business day of the issuance, modification, extension, or
14 termination of the order, pursuant to subdivision (a) of Section
15 6380 of the Family Code. It is the responsibility of the court to
16 transmit the modification, extension, or termination orders made
17 under this paragraph to the same agency that entered the original
18 protective order into the California Restraining and Protective
19 Order System.

20 (ii) (I) If a court does not issue an order pursuant to clause (i)
21 ~~in a case in which~~ *when* the defendant is charged with a crime
22 involving domestic violence as defined in Section 13700 of this
23 code or in Section 6211 of the Family Code, the court, on its own
24 motion, shall consider issuing a protective order upon a good cause
25 belief that harm to, or intimidation or dissuasion of, a victim or
26 witness has occurred or is reasonably likely to occur, that provides
27 as follows:

28 (ia) The defendant shall not own, possess, purchase, receive, or
29 attempt to purchase or receive, a firearm while the protective order
30 is in effect.

31 (ib) The defendant shall relinquish ownership or possession of
32 any firearms, pursuant to Section 527.9 of the Code of Civil
33 Procedure.

34 (II) Every person who owns, possesses, purchases, or receives,
35 or attempts to purchase or receive, a firearm while this protective
36 order is in effect is punishable pursuant to Section 29825.

37 (iii) An order issued, modified, extended, or terminated by a
38 court pursuant to this subparagraph shall be issued on forms
39 adopted by the Judicial Council of California that have been
40 approved by the Department of Justice pursuant to subdivision (i)

1 of Section 6380 of the Family Code. However, the fact that an
2 order issued by a court pursuant to this section was not issued on
3 forms adopted by the Judicial Council and approved by the
4 Department of Justice shall not, in and of itself, make the order
5 unenforceable.

6 (iv) A protective order issued under this subparagraph may
7 require the defendant to be placed on electronic monitoring if the
8 local government, with the concurrence of the county sheriff or
9 the chief probation officer with jurisdiction, adopts a policy to
10 authorize electronic monitoring of defendants and specifies the
11 agency with jurisdiction for this purpose. If the court determines
12 that the defendant has the ability to pay for the monitoring program,
13 the court shall order the defendant to pay for the monitoring. If
14 the court determines that the defendant does not have the ability
15 to pay for the electronic monitoring, the court may order electronic
16 monitoring to be paid for by the local government that adopted
17 the policy to authorize electronic monitoring. The duration of
18 electronic monitoring shall not exceed one year from the date the
19 order is issued. The electronic monitoring shall not be in place if
20 the protective order is not in place.

21 (2) For purposes of this subdivision, a minor who was not a
22 victim of, but who was physically present at the time of, an act of
23 domestic violence, is a witness and is deemed to have suffered
24 harm within the meaning of paragraph (1).

25 (b) A person violating an order made pursuant to subparagraphs
26 (A) to (G), inclusive, of paragraph (1) of subdivision (a) may be
27 punished for any substantive offense described in Section 136.1,
28 or for a contempt of the court making the order. A finding of
29 contempt shall not be a bar to prosecution for a violation of Section
30 136.1. However, a person held in contempt shall be entitled to
31 credit for punishment imposed therein against a sentence imposed
32 upon conviction of an offense described in Section 136.1. A
33 conviction or acquittal for a substantive offense under Section
34 136.1 shall be a bar to a subsequent punishment for contempt
35 arising out of the same act.

36 (c) (1) (A) Notwithstanding subdivision (e), an emergency
37 protective order issued pursuant to Chapter 2 (commencing with
38 Section 6250) of Part 3 of Division 10 of the Family Code or
39 Section 646.91 shall have precedence in enforcement over any

1 other restraining or protective order, provided the emergency
2 protective order meets all of the following requirements:

3 (i) The emergency protective order is issued to protect one or
4 more individuals who are already protected persons under another
5 restraining or protective order.

6 (ii) The emergency protective order restrains the individual who
7 is the restrained person in the other restraining or protective order
8 specified in clause (i).

9 (iii) The provisions of the emergency protective order are more
10 restrictive in relation to the restrained person than are the provisions
11 of the other restraining or protective order specified in clause (i).

12 (B) An emergency protective order that meets the requirements
13 of subparagraph (A) shall have precedence in enforcement over
14 the provisions of any other restraining or protective order only
15 with respect to those provisions of the emergency protective order
16 that are more restrictive in relation to the restrained person.

17 (2) Except as described in paragraph (1), a no-contact order, as
18 described in Section 6320 of the Family Code, shall have
19 precedence in enforcement over any other restraining or protective
20 order.

21 (d) (1) A person subject to a protective order issued under this
22 section shall not own, possess, purchase, or receive, or attempt to
23 purchase or receive, a firearm while the protective order is in effect.

24 (2) The court shall order a person subject to a protective order
25 issued under this section to relinquish ownership or possession of
26 any firearms, pursuant to Section 527.9 of the Code of Civil
27 Procedure.

28 (3) A person who owns, possesses, purchases, or receives, or
29 attempts to purchase or receive, a firearm while the protective
30 order is in effect is punishable pursuant to Section 29825.

31 (e) (1) When the defendant is charged with a crime involving
32 domestic violence, as defined in Section 13700 of this code or in
33 Section 6211 of the Family Code, or a violation of Section 261,
34 261.5, or *former Section 262*, or a crime that requires the defendant
35 to register pursuant to subdivision (c) of Section 290, the court
36 shall consider issuing the above-described orders on its own
37 motion. All interested parties shall receive a copy of those orders.
38 In order to facilitate this, the court's records of all criminal cases
39 involving domestic violence or a violation of Section 261, 261.5,
40 or *former Section 262*, or a crime that requires the defendant to

1 register pursuant to subdivision (c) of Section 290, shall be marked
 2 to clearly alert the court to this issue.

3 (2) When a complaint, information, or indictment charging a
 4 crime involving domestic violence, as defined in Section 13700
 5 or in Section 6211 of the Family Code, or a violation of Section
 6 261, 261.5, or *former Section 262*, or a crime that requires the
 7 defendant to register pursuant to subdivision (c) of Section 290,
 8 has been issued, except as described in subdivision (c), a restraining
 9 order or protective order against the defendant issued by the
 10 criminal court in that case has precedence in enforcement over a
 11 civil court order against the defendant.

12 (3) Custody and visitation with respect to the defendant and the
 13 defendant’s minor children may be ordered by a family or juvenile
 14 court consistent with the protocol established pursuant to
 15 subdivision (f), but if ordered after a criminal protective order has
 16 been issued pursuant to this section, the custody and visitation
 17 order shall make reference to, and, if there is not an emergency
 18 protective order that has precedence in enforcement pursuant to
 19 paragraph (1) of subdivision (c), or a no-contact order, as described
 20 in Section 6320 of the Family Code, acknowledge the precedence
 21 of enforcement of, an appropriate criminal protective order. On or
 22 before July 1, 2014, the Judicial Council shall modify the criminal
 23 and civil court forms consistent with this subdivision.

24 (f) On or before January 1, 2003, the Judicial Council shall
 25 promulgate a protocol, for adoption by each local court in
 26 substantially similar terms, to provide for the timely coordination
 27 of all orders against the same defendant and in favor of the same
 28 named victim or victims. The protocol shall include, but shall not
 29 be limited to, mechanisms for ensuring appropriate communication
 30 and information sharing between criminal, family, and juvenile
 31 courts concerning orders and cases that involve the same parties,
 32 and shall permit a family or juvenile court order to coexist with a
 33 criminal court protective order subject to the following conditions:

34 (1) An order that permits contact between the restrained person
 35 and the person’s children shall provide for the safe exchange of
 36 the children and shall not contain ~~language~~ *language*, either printed
 37 or ~~handwritten~~ *handwritten*, that violates a “no-contact order”
 38 issued by a criminal court.

39 (2) The safety of all parties shall be the courts’ paramount
 40 concern. The family or juvenile court shall specify the time, day,

1 place, and manner of transfer of the child, as provided in Section
2 3100 of the Family Code.

3 (g) On or before January 1, 2003, the Judicial Council shall
4 modify the criminal and civil court protective order forms
5 consistent with this section.

6 (h) (1) When a complaint, information, or indictment charging
7 a crime involving domestic violence, as defined in Section 13700
8 or in Section 6211 of the Family Code, has been filed, the court
9 may consider, in determining whether good cause exists to issue
10 an order under subparagraph (A) of paragraph (1) of subdivision
11 (a), the underlying nature of the offense charged, and the
12 information provided to the court pursuant to Section 273.75.

13 (2) When a complaint, information, or indictment charging a
14 violation of Section 261, 261.5, or *former Section 262*, or a crime
15 that requires the defendant to register pursuant to subdivision (c)
16 of Section 290, has been filed, the court may consider, in
17 determining whether good cause exists to issue an order under
18 paragraph (1) of subdivision (a), the underlying nature of the
19 offense charged, the defendant's relationship to the victim, the
20 likelihood of continuing harm to the victim, any current restraining
21 order or protective order issued by a civil or criminal court
22 involving the defendant, and the defendant's criminal history,
23 including, but not limited to, prior convictions for a violation of
24 Section 261, 261.5, or *former Section 262*, a crime that requires
25 the defendant to register pursuant to subdivision (c) of Section
26 290, any other forms of violence, or a weapons offense.

27 (i) (1) When a criminal defendant has been convicted of a crime
28 involving domestic violence as defined in Section 13700 or in
29 Section 6211 of the Family Code, a violation of subdivision (a) of
30 Section 236.1, Section 261, 261.5, *former Section 262*, subdivision
31 (a) of Section 266h, or subdivision (a) of Section 266i, a violation
32 of Section 186.22, or a crime that requires the defendant to register
33 pursuant to subdivision (c) of Section 290, the court, at the time
34 of sentencing, shall consider issuing an order restraining the
35 defendant from any contact with a victim of the crime. The order
36 may be valid for up to 10 years, as determined by the court. This
37 protective order may be issued by the court regardless of whether
38 the defendant is sentenced to the state prison or a county jail or
39 subject to mandatory supervision, or whether imposition of
40 sentence is suspended and the defendant is placed on probation.

1 It is the intent of the Legislature in enacting this subdivision that
2 the duration of a restraining order issued by the court be based
3 upon the seriousness of the facts before the court, the probability
4 of future violations, and the safety of a victim and the victim's
5 immediate family.

6 (2) When a criminal defendant has been convicted of a crime
7 involving domestic violence as defined in Section 13700 or in
8 Section 6211 of the Family Code, a violation of Section 261, 261.5,
9 or *former Section 262*, a violation of Section 186.22, or a crime
10 that requires the defendant to register pursuant to subdivision (c)
11 of Section 290, the court, at the time of sentencing, shall consider
12 issuing an order restraining the defendant from any contact with
13 a percipient witness to the crime if it can be established by clear
14 and convincing evidence that the witness has been harassed, as
15 defined in paragraph (3) of subdivision (b) of Section 527.6 of the
16 Code of Civil Procedure, by the defendant.

17 (3) An order under this subdivision may include provisions for
18 electronic monitoring if the local government, upon receiving the
19 concurrence of the county sheriff or the chief probation officer
20 with jurisdiction, adopts a policy authorizing electronic monitoring
21 of defendants and specifies the agency with jurisdiction for this
22 purpose. If the court determines that the defendant has the ability
23 to pay for the monitoring program, the court shall order the
24 defendant to pay for the monitoring. If the court determines that
25 the defendant does not have the ability to pay for the electronic
26 monitoring, the court may order the electronic monitoring to be
27 paid for by the local government that adopted the policy authorizing
28 electronic monitoring. The duration of the electronic monitoring
29 shall not exceed one year from the date the order is issued.

30 (j) For purposes of this section, "local government" means the
31 county that has jurisdiction over the protective order.

32 *SEC. 15. Section 136.7 of the Penal Code is amended to read:*

33 136.7. (a) Every person imprisoned in a county jail or the
34 state prison who has been convicted of a sexual offense, including,
35 but not limited to, a violation of Section 243.4, 261, 261.5, ~~262,~~
36 264.1, 266, 266a, 266b, 266c, 266f, 285, 286, 287, 288, or 289, or
37 former Section 262 or 288a, who knowingly reveals the name and
38 address of ~~any~~ a witness or victim to that offense to any other
39 prisoner with the intent that the other prisoner will intimidate or
40 harass the witness or victim through the initiation of unauthorized

1 correspondence with the witness or victim, is guilty of a public
2 offense, punishable by imprisonment in the county jail not to
3 exceed one year, or by imprisonment pursuant to subdivision (h)
4 of Section 1170.

5 ~~Nothing in this~~

6 (b) *This section shall not prevent the interviewing of witnesses.*

7 *SEC. 16. Section 209 of the Penal Code is amended to read:*

8 209. (a) ~~Any~~A person who seizes, confines, inveigles, entices,
9 decoys, abducts, conceals, kidnaps or carries away another person
10 by any means whatsoever with intent to hold or detain, or who
11 holds or detains, that person for ransom, ~~reward~~ *reward*, or to
12 commit extortion or to exact from another person any money or
13 valuable thing, or ~~any~~ a person who aids or abets any such act, is
14 guilty of a ~~felony~~, and *felony*. ~~When a person subjected to that act~~
15 ~~suffers death or bodily harm, or is intentionally confined in a~~
16 ~~manner that exposes that person to a substantial likelihood of~~
17 ~~death, the person, upon conviction thereof, conviction, shall be~~
18 ~~punished by imprisonment in the state prison for life without~~
19 ~~possibility of parole in cases in which any parole. When no person~~
20 ~~subjected to any such that act suffers death or bodily harm, or is~~
21 ~~intentionally confined in a manner which exposes that person to~~
22 ~~a substantial likelihood of death, or the person, upon conviction,~~
23 ~~shall be punished by imprisonment in the state prison for life with~~
24 ~~the possibility of parole in cases where no such person suffers~~
25 ~~death or bodily harm. parole.~~

26 (b) (1) ~~Any~~A person who kidnaps or carries away ~~any~~ an
27 individual to commit robbery, rape, ~~spousal rape~~, oral copulation,
28 sodomy, or any violation of Section 264.1, 288, 289, or ~~289~~, *former*
29 *Section 262*, shall be punished by imprisonment in the state prison
30 for life with the possibility of parole.

31 (2) This subdivision shall only apply if the movement of the
32 victim is beyond that merely incidental to the commission of, and
33 increases the risk of harm to the victim over and above that
34 necessarily present in, the intended underlying offense.

35 (c) ~~In all cases in which~~When probation is granted, the court
36 shall, except in unusual cases where the interests of justice would
37 best be served by a lesser penalty, require as a condition of the
38 probation that the person be confined in the county jail for 12
39 months. If the court grants probation without requiring the

1 defendant to be confined in the county jail for 12 months, it shall
2 specify its reason or reasons for imposing a lesser penalty.

3 (d) Subdivision (b) ~~shall does not be construed to~~ supersede or
4 affect Section 667.61. A person may be charged with a violation
5 of subdivision (b) and Section 667.61. However, a person may not
6 be punished under subdivision (b) and Section 667.61 for the same
7 act that constitutes a violation of both subdivision (b) and Section
8 667.61.

9 *SEC. 17. Section 261 of the Penal Code is amended to read:*

10 261. (a) Rape is an act of sexual intercourse accomplished
11 ~~with a person not the spouse of the perpetrator,~~ under any of the
12 following circumstances:

13 (1) ~~Where~~ *If* a person is incapable, because of a mental disorder
14 or developmental or physical disability, of giving legal consent,
15 and this is known or reasonably should be known to the person
16 committing the act. Notwithstanding the existence of a
17 conservatorship pursuant to the provisions of the
18 Lanterman-Petris-Short Act (Part 1 (commencing with Section
19 5000) of Division 5 of the Welfare and Institutions Code), the
20 prosecuting attorney shall prove, as an element of the crime, that
21 a mental disorder or developmental or physical disability rendered
22 the alleged victim incapable of giving consent.

23 (2) ~~Where~~ *If* it is accomplished against a person’s will by means
24 of force, violence, duress, menace, or fear of immediate and
25 unlawful bodily injury on the person or another.

26 (3) ~~Where~~ *If* a person is prevented from resisting by ~~any an~~
27 intoxicating or anesthetic substance, or ~~any a~~ controlled substance,
28 and this condition was known, or reasonably should have been
29 known by the accused.

30 (4) ~~Where~~ *If* a person is at the time unconscious of the nature
31 of the act, and this is known to the accused. As used in this
32 paragraph, “unconscious of the nature of the act” means incapable
33 of resisting because the victim meets any one of the following
34 conditions:

35 (A) Was unconscious or asleep.

36 (B) Was not aware, knowing, perceiving, or cognizant that the
37 act occurred.

38 (C) Was not aware, knowing, perceiving, or cognizant of the
39 essential characteristics of the act due to the perpetrator’s fraud in
40 fact.

1 (D) Was not aware, knowing, perceiving, or cognizant of the
2 essential characteristics of the act due to the perpetrator’s fraudulent
3 representation that the sexual penetration served a professional
4 purpose when it served no professional purpose.

5 (5) ~~Where~~ *If* a person submits under the belief that the person
6 committing the act is someone known to the victim other than the
7 accused, and this belief is induced by ~~any~~ artifice, pretense, or
8 concealment practiced by the accused, with intent to induce the
9 belief.

10 (6) ~~Where~~ *If* the act is accomplished against the victim’s will
11 by threatening to retaliate in the future against the victim or any
12 other person, and there is a reasonable possibility that the
13 perpetrator will execute the threat. As used in this paragraph,
14 “threatening to retaliate” means a threat to kidnap or falsely
15 imprison, or to inflict extreme pain, serious bodily injury, or death.

16 (7) ~~Where~~ *If* the act is accomplished against the victim’s will
17 by threatening to use the authority of a public official to incarcerate,
18 arrest, or deport the victim or another, and the victim has a
19 reasonable belief that the perpetrator is a public official. As used
20 in this paragraph, “public official” means a person employed by
21 a governmental agency who has the authority, as part of that
22 position, to incarcerate, arrest, or deport another. The perpetrator
23 does not actually have to be a public official.

24 (b) (1) *If probation is granted upon conviction of a violation*
25 *of this section when the victim was the spouse of the perpetrator,*
26 *the conditions of probation may include, in lieu of the fine, one or*
27 *both of the following:*

28 (A) *That the defendant make payments to a shelter for victims*
29 *of domestic violence, up to a maximum of one thousand dollars*
30 *(\$1,000).*

31 (B) *That the defendant reimburse the victim for reasonable costs*
32 *of counseling and other reasonable expenses that the court finds*
33 *are a direct result of the defendant’s offense.*

34 (2) *For any order to pay a fine, make payments to a shelter for*
35 *victims of domestic violence, or pay restitution as a condition of*
36 *probation under this subdivision, the court shall make a*
37 *determination of the defendant’s ability to pay. An order to make*
38 *payments to a shelter for victims of domestic violence shall not be*
39 *made if it would impair the ability of the defendant to pay direct*
40 *restitution to the victim or court-ordered child support. When the*

1 *injury to a married person is caused in whole or in part by the*
 2 *criminal acts of a spouse in violation of this section, the community*
 3 *property may not be used to discharge the liability of the offending*
 4 *spouse for restitution to the injured spouse, required by Section*
 5 *1203.04, as operative on or before August 2, 1995, or Section*
 6 *1202.4, or to a shelter for costs with regard to the injured spouse*
 7 *and dependents, required by this section, until all separate property*
 8 *of the offending spouse is exhausted.*

9 *(c) For purposes of this section, the following definitions apply:*

10 ~~(b) As used in this section, “duress”~~

11 (1) “*Duress*” means a direct or implied threat of force, violence,
 12 danger, or retribution sufficient to coerce a reasonable person of
 13 ordinary susceptibilities to perform an act which otherwise would
 14 not have been performed, or acquiesce in an act to which one
 15 otherwise would not have submitted. The total circumstances,
 16 including the age of the victim, and ~~his or her~~ *the victim’s*
 17 relationship to the defendant, are factors to consider in appraising
 18 the existence of duress.

19 ~~(e) As used in this section, “menace”~~

20 (2) “*Menace*” means any threat, declaration, or act ~~which that~~
 21 shows an intention to inflict an injury upon another.

22 *SEC. 18. Section 261.6 of the Penal Code is amended to read:*

23 261.6. (a) In prosecutions under Section 261, ~~262~~, 286, 287,
 24 or 289, or former Section 262 or 288a, in which consent is at issue,
 25 “consent” ~~shall be defined to mean~~ *means* positive cooperation in
 26 act or attitude pursuant to an exercise of free will. The person must
 27 act freely and voluntarily and have knowledge of the nature of the
 28 act or transaction involved.

29 (b) A current or previous dating or marital relationship ~~shall is~~
 30 ~~not be~~ sufficient to constitute consent ~~where~~ *if* consent is at issue
 31 in a prosecution under Section 261, ~~262~~, 286, 287, or 289, or
 32 former Section 262 or 288a.

33 ~~Nothing in this~~

34 (c) *This* section shall *not* affect the admissibility of evidence or
 35 the burden of proof on the issue of consent.

36 *SEC. 19. Section 261.7 of the Penal Code is amended to read:*

37 261.7. In prosecutions under Section 261, ~~262~~, 286, 287, or
 38 289, or former Section 262 or 288a, in which consent is at issue,
 39 evidence that the victim suggested, requested, or otherwise
 40 communicated to the defendant that the defendant use a condom

1 or other birth control device, without additional evidence of
2 consent, is not sufficient to constitute consent.

3 *SEC. 20. Section 262 of the Penal Code is repealed.*

4 ~~262. (a) Rape of a person who is the spouse of the perpetrator~~
5 ~~is an act of sexual intercourse accomplished under any of the~~
6 ~~following circumstances:~~

7 ~~(1) Where it is accomplished against a person's will by means~~
8 ~~of force, violence, duress, menace, or fear of immediate and~~
9 ~~unlawful bodily injury on the person or another.~~

10 ~~(2) Where a person is prevented from resisting by any~~
11 ~~intoxicating or anesthetic substance, or any controlled substance,~~
12 ~~and this condition was known, or reasonably should have been~~
13 ~~known, by the accused.~~

14 ~~(3) Where a person is at the time unconscious of the nature of~~
15 ~~the act, and this is known to the accused. As used in this paragraph,~~
16 ~~"unconscious of the nature of the act" means incapable of resisting~~
17 ~~because the victim meets one of the following conditions:~~

18 ~~(A) Was unconscious or asleep.~~

19 ~~(B) Was not aware, knowing, perceiving, or cognizant that the~~
20 ~~act occurred.~~

21 ~~(C) Was not aware, knowing, perceiving, or cognizant of the~~
22 ~~essential characteristics of the act due to the perpetrator's fraud in~~
23 ~~fact.~~

24 ~~(4) Where the act is accomplished against the victim's will by~~
25 ~~threatening to retaliate in the future against the victim or any other~~
26 ~~person, and there is a reasonable possibility that the perpetrator~~
27 ~~will execute the threat. As used in this paragraph, "threatening to~~
28 ~~retaliate" means a threat to kidnap or falsely imprison, or to inflict~~
29 ~~extreme pain, serious bodily injury, or death.~~

30 ~~(5) Where the act is accomplished against the victim's will by~~
31 ~~threatening to use the authority of a public official to incarcerate,~~
32 ~~arrest, or deport the victim or another, and the victim has a~~
33 ~~reasonable belief that the perpetrator is a public official. As used~~
34 ~~in this paragraph, "public official" means a person employed by~~
35 ~~a governmental agency who has the authority, as part of that~~
36 ~~position, to incarcerate, arrest, or deport another. The perpetrator~~
37 ~~does not actually have to be a public official.~~

38 ~~(b) As used in this section, "duress" means a direct or implied~~
39 ~~threat of force, violence, danger, or retribution sufficient to coerce~~
40 ~~a reasonable person of ordinary susceptibilities to perform an act~~

1 which otherwise would not have been performed, or acquiesce in
2 an act to which one otherwise would not have submitted. The total
3 circumstances, including the age of the victim, and his or her
4 relationship to the defendant, are factors to consider in apprising
5 the existence of duress.

6 ~~(e) As used in this section, “menace” means any threat,~~
7 ~~declaration, or act that shows an intention to inflict an injury upon~~
8 ~~another.~~

9 ~~(d) If probation is granted upon conviction of a violation of this~~
10 ~~section, the conditions of probation may include, in lieu of a fine,~~
11 ~~one or both of the following requirements:~~

12 ~~(1) That the defendant make payments to a battered women’s~~
13 ~~shelter, up to a maximum of one thousand dollars (\$1,000).~~

14 ~~(2) That the defendant reimburse the victim for reasonable costs~~
15 ~~of counseling and other reasonable expenses that the court finds~~
16 ~~are the direct result of the defendant’s offense.~~

17 ~~For any order to pay a fine, make payments to a battered~~
18 ~~women’s shelter, or pay restitution as a condition of probation~~
19 ~~under this subdivision, the court shall make a determination of the~~
20 ~~defendant’s ability to pay. In no event shall any order to make~~
21 ~~payments to a battered women’s shelter be made if it would impair~~
22 ~~the ability of the defendant to pay direct restitution to the victim~~
23 ~~or court-ordered child support. Where the injury to a married person~~
24 ~~is caused in whole or in part by the criminal acts of his or her~~
25 ~~spouse in violation of this section, the community property may~~
26 ~~not be used to discharge the liability of the offending spouse for~~
27 ~~restitution to the injured spouse, required by Section 1203.04, as~~
28 ~~operative on or before August 2, 1995, or Section 1202.4, or to a~~
29 ~~shelter for costs with regard to the injured spouse and dependents,~~
30 ~~required by this section, until all separate property of the offending~~
31 ~~spouse is exhausted.~~

32 *SEC. 21. Section 264 of the Penal Code is amended to read:*

33 264. (a) Except as provided in subdivision (c), rape, as defined
34 in Section 261 or *former Section 262*, is punishable by
35 imprisonment in the state prison for three, six, or eight years.

36 (b) In addition to any punishment imposed under this section
37 the judge may assess a fine not to exceed seventy dollars (\$70)
38 against ~~any~~ a person who violates Section 261 or *former Section*
39 *262* with the proceeds of this fine to be used in accordance with
40 Section 1463.23. The court shall, however, take into consideration

1 the defendant’s ability to pay, and no defendant shall be denied
2 probation because of ~~his or her~~ *the defendant’s* inability to pay the
3 fine permitted under this subdivision.

4 (c) (1) ~~Any~~—A person who commits rape in violation of
5 paragraph (2) of subdivision (a) of Section 261 upon a child who
6 is under 14 years of age shall be punished by imprisonment in the
7 state prison for 9, 11, or 13 years.

8 (2) ~~Any~~—A person who commits rape in violation of paragraph
9 (2) of subdivision (a) of Section 261 upon a minor who is 14 years
10 of age or older shall be punished by imprisonment in the state
11 prison for 7, 9, or 11 years.

12 (3) This subdivision does not preclude prosecution under Section
13 269, Section 288.7, or any other ~~provision~~ of law.

14 *SEC. 22. Section 264.1 of the Penal Code is amended to read:*

15 264.1. (a) The provisions of Section 264 notwithstanding, ~~in~~
16 ~~any case in which~~ *when* the defendant, voluntarily acting in concert
17 with another person, by force or violence and against the will of
18 the victim, committed an act described in Section ~~261, 262, 261~~
19 or 289, either personally or by aiding and abetting the other person,
20 that fact shall be charged in the indictment or information and if
21 found to be true by the jury, upon a jury trial, or if found to be true
22 by the court, upon a court trial, or if admitted by the defendant,
23 the defendant shall suffer confinement in the state prison for five,
24 seven, or nine years.

25 (b) (1) If the victim of an offense described in subdivision (a)
26 is a child who is under 14 years of age, the defendant shall be
27 punished by imprisonment in the state prison for 10, 12, or 14
28 years.

29 (2) If the victim of an offense described in subdivision (a) is a
30 minor who is 14 years of age or older, the defendant shall be
31 punished by imprisonment in the state prison for 7, 9, or 11 years.

32 (3) This subdivision does not preclude prosecution under Section
33 269, Section 288.7, or any other ~~provision~~ of law.

34 *SEC. 23. Section 264.2 of the Penal Code is amended to read:*

35 264.2. (a) ~~Whenever~~—*When* there is an alleged violation or
36 violations of subdivision (e) of Section 243, or Section 261, 261.5,
37 ~~262, 273.5, 286, 287, or 289,~~ the law enforcement officer assigned
38 to the case shall immediately provide the victim of the crime with
39 the “Victims of Domestic Violence” card, as specified in
40 subparagraph (H) of paragraph (9) of subdivision (c) of Section

1 13701, or with the card described in subdivision (a) of Section
2 680.2, whichever is more applicable.

3 (b) (1) The law enforcement officer, or ~~his or her~~ *the law*
4 *enforcement officer's* agency, shall immediately notify the local
5 rape victim counseling center, whenever a victim of an alleged
6 violation of Section 261, 261.5, ~~262~~, 286, 287, or 289 is transported
7 to a hospital for ~~any~~ *a* medical evidentiary or physical examination.
8 The hospital may notify the local rape victim counseling center,
9 when the victim of the alleged violation of Section 261, 261.5,
10 ~~262~~, 286, 287, or 289 is presented to the hospital for the medical
11 or evidentiary physical examination, upon approval of the victim.
12 The victim has the right to have a sexual assault counselor, as
13 defined in Section 1035.2 of the Evidence Code, and a support
14 person of the victim's choosing present at any medical evidentiary
15 or physical examination.

16 (2) Prior to the commencement of ~~any~~ *an* initial medical
17 evidentiary or physical examination arising out of a sexual assault,
18 the medical provider shall give the victim the card described in
19 subdivision (a) of Section 680.2. This requirement shall apply only
20 if the law enforcement agency has provided the card to the medical
21 provider in a language understood by the victim.

22 (3) The hospital may verify with the law enforcement officer,
23 or ~~his or her~~ *the law enforcement officer's* agency, whether the
24 local rape victim counseling center has been notified, upon the
25 approval of the victim.

26 (4) A support person may be excluded from a medical
27 evidentiary or physical examination if the law enforcement officer
28 or medical provider determines that the presence of that individual
29 would be detrimental to the purpose of the examination.

30 (5) After conducting the medical evidentiary or physical
31 examination, the medical provider shall give the victim the
32 opportunity to shower or bathe at no cost to the victim, unless a
33 showering or bathing facility is not available.

34 (6) A medical provider shall, within 24 hours of obtaining sexual
35 assault forensic evidence from the victim, notify the law
36 enforcement agency having jurisdiction over the alleged violation
37 if the medical provider knows the appropriate jurisdiction. If the
38 medical provider does not know the appropriate jurisdiction, the
39 medical provider shall notify the local law enforcement agency.

40 *SEC. 24. Section 273.7 of the Penal Code is amended to read:*

1 273.7. (a) ~~Any~~—A person who maliciously publishes,
2 disseminates, or otherwise discloses the location of ~~any a~~
3 trafficking shelter or domestic violence shelter or ~~any a~~ place
4 designated as a trafficking shelter or domestic violence shelter,
5 without the authorization of that trafficking shelter or domestic
6 violence shelter, is guilty of a misdemeanor.

7 ~~(b) (1) For purposes of this section, “domestic~~

8 (b) (1) *For purposes of this section, the following definitions*
9 *apply:*

10 “*Domestic violence shelter*” means a confidential location that
11 provides emergency housing on a 24-hour basis for victims of
12 sexual assault, spousal abuse, or both, and their families.

13 (2) ~~For purposes of this section, “trafficking~~—“*Trafficking*
14 *shelter*” means a confidential location that provides emergency
15 housing on a 24-hour basis for victims of human trafficking,
16 including any person who is a victim under Section 236.1.

17 (3) Sexual assault, spousal abuse, or both, include, but are not
18 limited to, those crimes described in Sections 240, 242, 243.4,
19 261, 261.5, ~~262~~, 264.1, 266, 266a, 266b, 266c, 266f, 273.5, 273.6,
20 285, 288, and 289.

21 (c) ~~Nothing in this~~—*This section shall does not apply to*
22 *confidential communications between an attorney and his or her*
23 *their client.*

24 *SEC. 25. Section 290 of the Penal Code, as Amended by Stats.*
25 *2020, Ch. 79, Sec. 2, is amended to read:*

26 290. (a) Sections 290 to 290.024, inclusive, shall be known,
27 and may be cited, as the Sex Offender Registration Act. All
28 references to “the Act” in those sections are to the Sex Offender
29 Registration Act.

30 (b) Every person described in subdivision (c), for the period
31 specified in subdivision (d) while residing in California, or while
32 attending school or working in California, as described in Sections
33 290.002 and 290.01, shall register with the chief of police of the
34 city in which the person is residing, or the sheriff of the county if
35 the person is residing in an unincorporated area or city that has no
36 police department, and, additionally, with the chief of police of a
37 campus of the University of California, the California State
38 University, or community college if the person is residing upon
39 the campus or in any of its facilities, within five working days of
40 coming into, or changing the person’s residence within, any city,

1 county, or city and county, or campus in which the person
2 temporarily resides, and shall register thereafter in accordance
3 with the Act, unless the duty to register is terminated pursuant to
4 Section 290.5 or as otherwise provided by law.

5 (c) (1) The following persons shall register:

6 Every person who, since July 1, 1944, has been or is hereafter
7 convicted in any court in this state or in any federal or military
8 court of a violation of Section 187 committed in the perpetration,
9 or an attempt to perpetrate, ~~rape~~ *rape*, or any act punishable under
10 Section 286, 287, 288, or 289 or former Section 288a, Section 207
11 or 209 committed with intent to violate Section 261, 286, 287,
12 288, or 289 or former Section 288a, Section 220, except assault
13 to commit mayhem, subdivision (b) or (c) of Section 236.1, Section
14 243.4, Section 261, paragraph (1) of subdivision (a) of *former*
15 Section 262 involving the use of force or violence for which the
16 person is sentenced to the state prison, Section 264.1, 266, or 266c,
17 subdivision (b) of Section 266h, subdivision (b) of Section 266i,
18 Section 266j, 267, 269, 285, 286, 287, 288, 288.3, 288.4, 288.5,
19 288.7, 289, or 311.1, or former Section 288a, subdivision (b), (c),
20 or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or
21 647.6, former Section 647a, subdivision (c) of Section 653f,
22 subdivision 1 or 2 of Section 314, any offense involving lewd or
23 lascivious conduct under Section 272, or any felony violation of
24 Section 288.2; any statutory predecessor that includes all elements
25 of one of the offenses described in this subdivision; or any person
26 who since that date has been or is hereafter convicted of the attempt
27 or conspiracy to commit any of the offenses described in this
28 subdivision.

29 (2) Notwithstanding paragraph (1), a person convicted of a
30 violation of subdivision (b) of Section 286, subdivision (b) of
31 Section 287, or subdivision (h) or (i) of Section 289 shall not be
32 required to register if, at the time of the offense, the person is not
33 more than 10 years older than the minor, as measured from the
34 minor's date of birth to the person's date of birth, and the
35 conviction is the only one requiring the person to register. This
36 paragraph does not preclude the court from requiring a person to
37 register pursuant to Section 290.006.

38 (d) A person described in subdivision (c), or who is otherwise
39 required to register pursuant to the Act shall register for 10 years,
40 20 years, or life, following a conviction and release from

1 incarceration, placement, commitment, or release on probation or
2 other supervision, as follows:

3 (1) (A) A tier one offender is subject to registration for a
4 minimum of 10 years. A person is a tier one offender if the person
5 is required to register for conviction of a misdemeanor described
6 in subdivision (c), or for conviction of a felony described in
7 subdivision (c) that was not a serious or violent felony as described
8 in subdivision (c) of Section 667.5 or subdivision (c) of Section
9 1192.7.

10 (B) This paragraph does not apply to a person who is subject
11 to registration pursuant to paragraph (2) or (3).

12 (2) (A) A tier two offender is subject to registration for a
13 minimum of 20 years. A person is a tier two offender if the person
14 was convicted of an offense described in subdivision (c) that is
15 also described in subdivision (c) of Section 667.5 or subdivision
16 (c) of Section 1192.7, Section 285, subdivision (g) or (h) of Section
17 286, subdivision (g) or (h) of Section 287 or former Section 288a,
18 subdivision (b) of Section 289, or Section 647.6 if it is a second
19 or subsequent conviction for that offense that was brought and
20 tried separately.

21 (B) This paragraph does not apply if the person is subject to
22 lifetime registration as required in paragraph (3).

23 (3) A tier three offender is subject to registration for life. A
24 person is a tier three offender if any one of the following applies:

25 (A) Following conviction of a registerable offense, the person
26 was subsequently convicted in a separate proceeding of committing
27 an offense described in subdivision (c) and the conviction is for
28 commission of a violent felony described in subdivision (c) of
29 Section 667.5, or the person was subsequently convicted of
30 committing an offense for which the person was ordered to register
31 pursuant to Section 290.006, and the conviction is for the
32 commission of a violent felony described in subdivision (c) of
33 Section 667.5.

34 (B) The person was committed to a state mental hospital as a
35 sexually violent predator pursuant to Article 4 (commencing with
36 Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare
37 and Institutions Code.

38 (C) The person was convicted of violating any of the following:

- 1 (i) Section 187 while attempting to commit or committing an
2 act punishable under Section 261, 286, 287, 288, or 289 or former
3 Section 288a.
- 4 (ii) Section 207 or 209 with intent to violate Section 261, 286,
5 287, 288, or 289 or former Section 288a.
- 6 (iii) Section 220.
- 7 (iv) Subdivision (b) of Section 266h.
- 8 (v) Subdivision (b) of Section 266i.
- 9 (vi) Section 266j.
- 10 (vii) Section 267.
- 11 (viii) Section 269.
- 12 (ix) Subdivision (b) or (c) of Section 288.
- 13 (x) Section 288.2.
- 14 (xi) Section 288.3, unless committed with the intent to commit
15 a violation of subdivision (b) of Section 286, subdivision (b) of
16 Section 287 or former Section 288a, or subdivision (h) or (i) of
17 Section 289.
- 18 (xii) Section 288.4.
- 19 (xiii) Section 288.5.
- 20 (xiv) Section 288.7.
- 21 (xv) Subdivision (c) of Section 653f.
- 22 (xvi) Any offense for which the person is sentenced to a life
23 term pursuant to Section 667.61.
- 24 (D) The person's risk level on the static risk assessment
25 instrument for sex offenders (SARATSO), pursuant to Section
26 290.04, is well above average risk at the time of release on the
27 index sex offense into the community, as defined in the Coding
28 Rules for that instrument.
- 29 (E) The person is a habitual sex offender pursuant to Section
30 667.71.
- 31 (F) The person was convicted of violating subdivision (a) of
32 Section 288 in two proceedings brought and tried separately.
- 33 (G) The person was sentenced to 15 to 25 years to life for an
34 offense listed in Section 667.61.
- 35 (H) The person is required to register pursuant to Section
36 290.004.
- 37 (I) The person was convicted of a felony offense described in
38 subdivision (b) or (c) of Section 236.1.
- 39 (J) The person was convicted of a felony offense described in
40 subdivision (a), (c), or (d) of Section 243.4.

1 (K) The person was convicted of violating paragraph (2), (3),
2 or (4) of subdivision (a) of Section 261 or was convicted of
3 violating Section 261 and punished pursuant to paragraph (1) or
4 (2) of subdivision (c) of Section 264.

5 (L) The person was convicted of violating paragraph (1) of
6 subdivision (a) of *former* Section 262.

7 (M) The person was convicted of violating Section 264.1.

8 (N) The person was convicted of any offense involving lewd
9 or lascivious conduct under Section 272.

10 (O) The person was convicted of violating paragraph (2) of
11 subdivision (c) or subdivision (d), (f), or (i) of Section 286.

12 (P) The person was convicted of violating paragraph (2) of
13 subdivision (c) or subdivision (d), (f), or (i) of Section 287 or
14 former Section 288a.

15 (Q) The person was convicted of violating paragraph (1) of
16 subdivision (a) or subdivision (d), (e), or (j) of Section 289.

17 (R) The person was convicted of a felony violation of Section
18 311.1 or 311.11 or of violating subdivision (b), (c), or (d) of Section
19 311.2, Section 311.3, 311.4, or 311.10.

20 (4) (A) A person who is required to register pursuant to Section
21 290.005 shall be placed in the appropriate tier if the offense is
22 assessed as equivalent to a California registerable offense described
23 in subdivision (c).

24 (B) If the person's duty to register pursuant to Section 290.005
25 is based solely on the requirement of registration in another
26 jurisdiction, and there is no equivalent California registerable
27 offense, the person shall be subject to registration as a tier two
28 offender, except that the person is subject to registration as a tier
29 three offender if one of the following applies:

30 (i) The person's risk level on the static risk assessment
31 instrument (SARATSO), pursuant to Section 290.06, is well above
32 average risk at the time of release on the index sex offense into
33 the community, as defined in the Coding Rules for that instrument.

34 (ii) The person was subsequently convicted in a separate
35 proceeding of an offense substantially similar to an offense listed
36 in subdivision (c) which is also substantially similar to an offense
37 described in subdivision (c) of Section 667.5, or is substantially
38 similar to Section 269 or 288.7.

39 (iii) The person has ever been committed to a state mental
40 hospital or mental health facility in a proceeding substantially

1 similar to civil commitment as a sexually violent predator pursuant
2 to Article 4 (commencing with Section 6600) of Chapter 2 of Part
3 2 of Division 6 of the Welfare and Institutions Code.

4 (5) (A) The Department of Justice may place a person described
5 in subdivision (c), or who is otherwise required to register pursuant
6 to the Act, in a tier-to-be-determined category if the appropriate
7 tier designation described in this subdivision cannot be immediately
8 ascertained. An individual placed in this tier-to-be-determined
9 category shall continue to register in accordance with the Act. The
10 individual shall be given credit *toward the mandated minimum*
11 *registration period* for any period for which the individual registers
12 ~~towards the individual's mandated minimum registration period.~~
13 *registers.*

14 (B) The Department of Justice shall ascertain an individual's
15 appropriate tier designation as described in this subdivision within
16 24 months of the individual's placement in the
17 tier-to-be-determined category.

18 (e) The minimum time period for the completion of the required
19 registration period in tier one or two commences on the date of
20 release from incarceration, placement, or commitment, including
21 any related civil commitment on the registerable offense. The
22 minimum time for the completion of the required registration
23 period for a designated tier is tolled during any period of
24 subsequent incarceration, placement, or commitment, including
25 any subsequent civil commitment, except that arrests not resulting
26 in conviction, adjudication, or revocation of probation or parole
27 shall not toll the required registration period. The minimum time
28 period shall be extended by one year for each misdemeanor
29 conviction of failing to register under this act, and by three years
30 for each felony conviction of failing to register under this act,
31 without regard to the actual time served in custody for the
32 conviction. If a registrant is subsequently convicted of another
33 offense requiring registration pursuant to the Act, a new minimum
34 time period for the completion of the registration requirement for
35 the applicable tier shall commence upon that person's release from
36 incarceration, placement, or commitment, including any related
37 civil commitment. If the subsequent conviction requiring
38 registration pursuant to the Act occurs prior to an order to terminate
39 the registrant from the registry after completion of a tier associated

1 with the first conviction for a registerable offense, the applicable
2 tier shall be the highest tier associated with the convictions.

3 (f) ~~Nothing in this~~ *This section shall be construed to does not*
4 require a ward of the juvenile court to register under the Act, except
5 as provided in Section 290.008.

6 (g) ~~This section shall become operative on January 1, 2021.~~

7 *SEC. 26. Section 292 of the Penal Code is amended to read:*

8 292. It is the intention of the Legislature in enacting this section
9 to clarify that for the purposes of subdivisions (b) and (c) of Section
10 12 of Article I of the California Constitution, a violation of
11 paragraph (2) or (6) of subdivision (a) of Section 261, paragraph
12 (1) or (4) of subdivision (a) of *former* Section 262, Section 264.1,
13 subdivision (c) or (d) of Section 286, subdivision (c) or (d) of
14 Section 287 or former Section 288a, subdivision (b) of Section
15 288, or subdivision (a) of Section 289, shall be deemed to be a
16 felony offense involving an act of violence and a felony offense
17 involving great bodily harm.

18 *SEC. 27. Section 667 of the Penal Code is amended to read:*

19 667. (a) (1) ~~Any~~ *A* person convicted of a serious felony who
20 previously has been convicted of a serious felony in this state or
21 of any offense committed in another jurisdiction ~~which~~ *that*
22 includes all of the elements of any serious felony, shall receive,
23 in addition to the sentence imposed by the court for the present
24 offense, a five-year enhancement for each such prior conviction
25 on charges brought and tried separately. The terms of the present
26 offense and each enhancement shall run consecutively.

27 (2) This subdivision shall not be applied when the punishment
28 imposed under other provisions of law would result in a longer
29 term of imprisonment. There is no requirement of prior
30 incarceration or commitment for this subdivision to apply.

31 (3) The Legislature may increase the length of the enhancement
32 of sentence provided in this subdivision by a statute passed by
33 majority vote of each house thereof.

34 (4) As used in this subdivision, “serious felony” means a serious
35 felony listed in subdivision (c) of Section 1192.7.

36 (5) This subdivision does not apply to a person convicted of
37 selling, furnishing, administering, or giving, or offering to sell,
38 furnish, administer, or give to a minor any
39 methamphetamine-related drug or any precursors of
40 methamphetamine unless the prior conviction was for a serious

1 felony described in subparagraph (24) of subdivision (c) of Section
2 1192.7.

3 (b) It is the intent of the Legislature in enacting subdivisions
4 (b) to (i), inclusive, to ensure longer prison sentences and greater
5 punishment for those who commit a felony and have been
6 previously convicted of one or more serious or violent felony
7 offenses.

8 (c) Notwithstanding any other law, if a defendant has been
9 convicted of a felony and it has been pled and proved that the
10 defendant has one or more prior serious or violent felony
11 convictions as defined in subdivision (d), the court shall adhere to
12 each of the following:

13 (1) There shall not be an aggregate term limitation for purposes
14 of consecutive sentencing for any subsequent felony conviction.

15 (2) Probation for the current offense shall not be granted, nor
16 shall execution or imposition of the sentence be suspended for any
17 prior offense.

18 (3) The length of time between the prior serious or violent felony
19 conviction and the current felony conviction shall not affect the
20 imposition of sentence.

21 (4) There shall not be a commitment to any other facility other
22 than the state prison. Diversion shall not be ~~granted~~ *granted*, nor
23 shall the defendant be eligible for commitment to the California
24 Rehabilitation Center as provided in Article 2 (commencing with
25 Section 3050) of Chapter 1 of Division 3 of the Welfare and
26 Institutions Code.

27 (5) The total amount of credits awarded pursuant to Article 2.5
28 (commencing with Section 2930) of Chapter 7 of Title 1 of Part
29 3 shall not exceed one-fifth of the total term of imprisonment
30 imposed and shall not accrue until the defendant is physically
31 placed in the state prison.

32 (6) If there is a current conviction for more than one felony
33 count not committed on the same occasion, and not arising from
34 the same set of operative facts, the court shall sentence the
35 defendant consecutively on each count pursuant to subdivision
36 (e).

37 (7) If there is a current conviction for more than one serious or
38 violent felony as described in paragraph (6), the court shall impose
39 the sentence for each conviction consecutive to the sentence for

1 any other conviction for which the defendant may be consecutively
2 sentenced in the manner prescribed by law.

3 (8) ~~Any~~ A sentence imposed pursuant to subdivision (e) ~~will~~
4 *shall* be imposed consecutive to any other sentence ~~which~~ *that* the
5 defendant is already serving, unless otherwise provided by law.

6 (d) Notwithstanding any other law and for the purposes of
7 subdivisions (b) to (i), inclusive, a prior conviction of a serious or
8 violent felony shall be defined as:

9 (1) ~~Any~~ An offense defined in subdivision (c) of Section 667.5
10 as a violent felony or ~~any~~ an offense defined in subdivision (c) of
11 Section 1192.7 as a serious felony in this state. The determination
12 of whether a prior conviction is a prior felony conviction for
13 purposes of subdivisions (b) to (i), inclusive, shall be made upon
14 the date of that prior conviction and is not affected by the sentence
15 imposed unless the sentence automatically, upon the initial
16 sentencing, converts the felony to a misdemeanor. The following
17 dispositions shall not affect the determination that a prior
18 conviction is a prior felony for purposes of subdivisions (b) to (i),
19 inclusive:

20 (A) The suspension of imposition of judgment or sentence.

21 (B) The stay of execution of sentence.

22 (C) The commitment to the State Department of ~~Health Care~~
23 ~~Services~~ *State Hospitals* as a mentally disordered sex offender
24 following a conviction of a felony.

25 (D) The commitment to the California Rehabilitation Center or
26 any other facility whose function is rehabilitative diversion from
27 the state prison.

28 (2) A prior conviction in another jurisdiction for an offense that,
29 if committed in California, is punishable by imprisonment in the
30 state prison constitutes a prior conviction of a particular serious
31 or violent felony if the prior conviction in the other jurisdiction is
32 for an offense that includes all of the elements of a particular
33 violent felony as defined in subdivision (c) of Section 667.5 or
34 serious felony as defined in subdivision (c) of Section 1192.7.

35 (3) A prior juvenile adjudication constitutes a prior serious or
36 violent felony conviction for purposes of sentence enhancement
37 ~~if:~~ *if it meets all of the following:*

38 (A) The juvenile was 16 years of age or older at the time the
39 juvenile committed the prior offense.

1 (B) The prior offense is listed in subdivision (b) of Section 707
2 of the Welfare and Institutions Code or described in paragraph (1)
3 or (2) as a serious or violent felony.

4 (C) The juvenile was found to be a fit and proper subject to be
5 dealt with under the juvenile court law.

6 (D) The juvenile was adjudged a ward of the juvenile court
7 within the meaning of Section 602 of the Welfare and Institutions
8 Code because the person committed an offense listed in subdivision
9 (b) of Section 707 of the Welfare and Institutions Code.

10 (e) For purposes of subdivisions (b) to (i), inclusive, and in
11 addition to any other enhancement or punishment provisions ~~which~~
12 ~~may that~~ apply, the following apply if a defendant has one or more
13 prior serious or violent felony convictions:

14 (1) If a defendant has one prior serious or violent felony
15 conviction as defined in subdivision (d) that has been pled and
16 proved, the determinate term or minimum term for an indeterminate
17 term shall be twice the term otherwise provided as punishment for
18 the current felony conviction.

19 (2) (A) Except as provided in subparagraph (C), if a defendant
20 has two or more prior serious or violent felony convictions as
21 defined in subdivision (d) that have been pled and proved, the term
22 for the current felony conviction shall be an indeterminate term
23 of life imprisonment with a minimum term of the indeterminate
24 sentence calculated as the greatest of:

25 (i) Three times the term otherwise provided as punishment for
26 each current felony conviction subsequent to the two or more prior
27 serious or violent felony convictions.

28 (ii) Imprisonment in the state prison for 25 years.

29 (iii) The term determined by the court pursuant to Section 1170
30 for the underlying conviction, including any enhancement
31 applicable under Chapter 4.5 (commencing with Section 1170) of
32 Title 7 of Part 2, or any period prescribed by Section 190 or 3046.

33 (B) The indeterminate term described in subparagraph (A) shall
34 be served consecutive to any other term of imprisonment for which
35 a consecutive term may be imposed by law. Any other term
36 imposed subsequent to ~~any~~ an indeterminate term described in
37 subparagraph (A) shall not be merged therein but shall commence
38 at the time the person would otherwise have been released from
39 prison.

1 (C) If a defendant has two or more prior serious or violent felony
2 convictions as defined in subdivision (c) of Section 667.5 or
3 subdivision (c) of Section 1192.7 that have been pled and proved,
4 and the current offense is not a serious or violent felony as defined
5 in subdivision (d), the defendant shall be sentenced pursuant to
6 paragraph (1) of subdivision (e) unless the prosecution pleads and
7 proves any of the following:

8 (i) The current offense is a controlled substance charge, in which
9 an allegation under Section 11370.4 or 11379.8 of the Health and
10 Safety Code was admitted or found true.

11 (ii) The current offense is a felony sex offense, defined in
12 subdivision (d) of Section 261.5 or *former* Section 262, or ~~any a~~
13 felony offense that results in mandatory registration as a sex
14 offender pursuant to subdivision (c) of Section 290 except for
15 violations of Sections 266 and 285, paragraph (1) of subdivision
16 (b) and subdivision (e) of Section 286, paragraph (1) of subdivision
17 (b) and subdivision (e) of Section 288a, Section 311.11, and
18 Section 314.

19 (iii) During the commission of the current offense, the defendant
20 used a firearm, was armed with a firearm or deadly weapon, or
21 intended to cause great bodily injury to another person.

22 (iv) The defendant suffered a prior serious or violent felony
23 conviction, as defined in subdivision (d) of this section, for any of
24 the following felonies:

25 (I) A “sexually violent offense” as defined in subdivision (b)
26 of Section 6600 of the Welfare and Institutions Code.

27 (II) Oral copulation with a child who is under 14 years of ~~age,~~
28 ~~age~~ and ~~who is~~ more than 10 years younger than the defendant as
29 defined by Section 288a, sodomy with another person who is under
30 14 years of age and more than 10 years younger than the defendant
31 as defined by Section 286, or sexual penetration with another
32 person who is under 14 years of ~~age,~~ ~~age~~ and ~~who is~~ more than 10
33 years younger than the defendant, as defined by Section 289.

34 (III) A lewd or lascivious act involving a child under 14 years
35 of age, in violation of Section 288.

36 (IV) Any homicide offense, including any attempted homicide
37 offense, defined in Sections 187 to 191.5, inclusive.

38 (V) Solicitation to commit murder as defined in Section 653f.

39 (VI) Assault with a machine gun on a peace officer or firefighter,
40 as defined in paragraph (3) of subdivision (d) of Section 245.

1 (VII) Possession of a weapon of mass destruction, as defined
2 in paragraph (1) of subdivision (a) of Section 11418.

3 (VIII) Any serious or violent felony offense punishable in
4 California by life imprisonment or death.

5 (f) (1) Notwithstanding any other law, subdivisions (b) to (i),
6 inclusive, shall be applied in every case in which a defendant has
7 one or more prior serious or violent felony convictions as defined
8 in subdivision (d). The prosecuting attorney shall plead and prove
9 each prior serious or violent felony conviction except as provided
10 in paragraph (2).

11 (2) The prosecuting attorney may move to dismiss or strike a
12 prior serious or violent felony conviction allegation in the
13 furtherance of justice pursuant to Section 1385, or if there is
14 insufficient evidence to prove the prior serious or violent felony
15 conviction. If upon the satisfaction of the court that there is
16 insufficient evidence to prove the prior serious or violent felony
17 conviction, the court may dismiss or strike the allegation. This
18 section shall not be read to alter a court's authority under Section
19 1385.

20 (g) Prior serious or violent felony convictions shall not be used
21 in plea bargaining as defined in subdivision (b) of Section 1192.7.
22 The prosecution shall plead and prove all known prior felony
23 serious or violent convictions and shall not enter into any
24 agreement to strike or seek the dismissal of any prior serious or
25 violent felony conviction allegation except as provided in paragraph
26 (2) of subdivision (f).

27 (h) All references to existing statutes in subdivisions (c) to (g),
28 inclusive, are to statutes as they existed on November 7, 2012.

29 (i) If any provision of subdivisions (b) to (h), inclusive, or the
30 application thereof to any person or circumstance is held invalid,
31 that invalidity shall not affect other provisions or applications of
32 those subdivisions ~~which~~ *that* can be given effect without the
33 invalid provision or application, and to this end the provisions of
34 those subdivisions are severable.

35 (j) The provisions of this section shall not be amended by the
36 Legislature except by statute passed in each house by rollcall vote
37 entered in the journal, two-thirds of the membership concurring,
38 or by a statute that becomes effective only when approved by the
39 electors.

40 *SEC. 28. Section 667.5 of the Penal Code is amended to read:*

1 667.5. Enhancement of prison terms for new offenses because
2 of prior prison terms shall be imposed as follows:

3 (a) ~~Where~~*If* one of the new offenses is one of the violent
4 felonies specified in subdivision (c), in addition to and consecutive
5 to any other prison terms therefor, the court shall impose a
6 three-year term for each prior separate prison term served by the
7 defendant ~~where~~ *when* the prior offense was one of the violent
8 felonies specified in subdivision (c). However, ~~no~~ *an* additional
9 term shall *not* be imposed under this subdivision for any prison
10 term served prior to a period of 10 years in which the defendant
11 remained free of both prison custody and the commission of an
12 offense ~~which~~ *that* results in a felony conviction.

13 (b) Except ~~where~~ *when* subdivision (a) applies, ~~where~~ *if* the new
14 offense is any felony for which a prison sentence or a sentence of
15 imprisonment in a county jail under subdivision (h) of Section
16 1170 is imposed or is not suspended, in addition and consecutive
17 to any other sentence therefor, the court shall impose a one-year
18 term for each prior separate prison term for a sexually violent
19 offense as defined in subdivision (b) of Section 6600 of the Welfare
20 and Institutions Code, provided that ~~no~~ *an* additional term shall
21 *not* be imposed under this subdivision for any prison term served
22 prior to a period of five years in which the defendant remained
23 free of both the commission of an offense ~~which~~ *that* results in a
24 felony conviction, and prison custody or the imposition of a term
25 of jail custody imposed under subdivision (h) of Section 1170 or
26 any felony sentence that is not suspended.

27 (c) *The Legislature finds and declares that the following*
28 *specified crimes merit special consideration when imposing a*
29 *sentence to display society's condemnation for these extraordinary*
30 *crimes of violence against the person.* For the purpose of this
31 section, "violent felony" ~~shall mean~~ *means* any of the following:

- 32 (1) Murder or voluntary manslaughter.
- 33 (2) Mayhem.
- 34 (3) Rape as defined in paragraph (2) or (6) of subdivision (a)
35 of Section 261 or paragraph (1) or (4) of subdivision (a) of *former*
36 Section 262.
- 37 (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- 38 (5) Oral copulation as defined in subdivision (c) or (d) of Section
39 287 or of former Section 288a.

- 1 (6) Lewd or lascivious act as defined in subdivision (a) or (b)
- 2 of Section 288.
- 3 (7) Any felony punishable by death or imprisonment in the state
- 4 prison for life.
- 5 (8) Any felony in which the defendant inflicts great bodily injury
- 6 ~~on any~~ a person other than an ~~accomplice~~ *accomplice*, which has
- 7 been charged and proved as provided for in Section 12022.7,
- 8 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior
- 9 to July 1, 1977, in Sections 213, 264, and 461, or any felony in
- 10 which the defendant uses a firearm which use has been charged
- 11 and proved as provided in subdivision (a) of Section 12022.3, or
- 12 Section 12022.5 or 12022.55.
- 13 (9) Any robbery.
- 14 (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- 15 (11) Sexual penetration as defined in subdivision (a) or (j) of
- 16 Section 289.
- 17 (12) Attempted murder.
- 18 (13) A violation of Section 18745, 18750, or 18755.
- 19 (14) Kidnapping.
- 20 (15) Assault with the intent to commit a specified felony, in
- 21 violation of Section 220.
- 22 (16) Continuous sexual abuse of a child, in violation of Section
- 23 288.5.
- 24 (17) Carjacking, as defined in subdivision (a) of Section 215.
- 25 (18) ~~Rape, spousal rape, Rape~~ or sexual penetration, in concert,
- 26 in violation of Section 264.1.
- 27 (19) Extortion, as defined in Section 518, which would constitute
- 28 a felony violation of Section 186.22.
- 29 (20) Threats to victims or witnesses, as defined in Section 136.1,
- 30 which would constitute a felony violation of Section 186.22.
- 31 (21) Any burglary of the first degree, as defined in subdivision
- 32 (a) of Section 460, wherein it is charged and proved that another
- 33 person, other than an accomplice, was present in the residence
- 34 during the commission of the burglary.
- 35 (22) Any violation of Section 12022.53.
- 36 (23) A violation of subdivision (b) or (c) of Section 11418. ~~The~~
- 37 ~~Legislature finds and declares that these specified crimes merit~~
- 38 ~~special consideration when imposing a sentence to display society's~~
- 39 ~~condemnation for these extraordinary crimes of violence against~~
- 40 ~~the person.~~

1 (d) For the purposes of this section, the defendant shall be
2 deemed to remain in prison custody for an offense until the official
3 discharge from custody, including any period of mandatory
4 supervision, or until release on parole or postrelease community
5 supervision, whichever first occurs, including any time during
6 which the defendant remains subject to reimprisonment or custody
7 in county jail for escape from custody or is reimprisoned on
8 revocation of parole or postrelease community supervision. The
9 additional penalties provided for prior prison terms shall not be
10 imposed unless they are charged and admitted or found true in the
11 action for the new offense.

12 (e) The additional penalties provided for prior prison terms shall
13 not be imposed for any felony for which the defendant did not
14 serve a prior separate term in state prison or in county jail under
15 subdivision (h) of Section 1170.

16 (f) A prior conviction of a felony shall include a conviction in
17 another jurisdiction for an offense which, if committed in
18 California, is punishable by imprisonment in the state prison or in
19 county jail under subdivision (h) of Section 1170 if the defendant
20 served one year or more in prison for the offense in the other
21 jurisdiction. A prior conviction of a particular felony shall include
22 a conviction in another jurisdiction for an offense ~~which~~ *that*
23 includes all of the elements of the particular felony as defined
24 under California law if the defendant served one year or more in
25 prison for the offense in the other jurisdiction.

26 (g) A prior separate prison term for the purposes of this section
27 shall mean a continuous completed period of prison incarceration
28 imposed for the particular offense alone or in combination with
29 concurrent or consecutive sentences for other crimes, including
30 any reimprisonment on revocation of parole ~~which~~ *that* is not
31 accompanied by a new commitment to prison, and including any
32 reimprisonment after an escape from incarceration.

33 (h) Serving a prison term includes any confinement time in any
34 state prison or federal penal institution as punishment for
35 commission of an offense, including confinement in a hospital or
36 other institution or facility credited as service of prison time in the
37 jurisdiction of the confinement.

38 (i) For the purposes of this section, a commitment to the State
39 Department of Mental Health, or its successor the State Department
40 of State Hospitals, as a mentally disordered sex offender following

1 a conviction of a felony, which commitment exceeds one year in
2 duration, shall be deemed a prior prison term.

3 (j) For the purposes of this section, when a person subject to
4 the custody, control, and discipline of the Secretary of the
5 Department of Corrections and Rehabilitation is incarcerated at a
6 facility operated by the Division of Juvenile Justice, that
7 incarceration shall be deemed to be a term served in state prison.

8 (k) (1) Notwithstanding subdivisions (d) and (g) or any other
9 ~~provision of law, where~~ *when* one of the new offenses is committed
10 while the defendant is temporarily removed from prison pursuant
11 to Section 2690 or while the defendant is transferred to a
12 community facility pursuant to Section 3416, 6253, or 6263, or
13 while the defendant is on furlough pursuant to Section 6254, the
14 defendant shall be subject to the full enhancements provided for
15 in this section.

16 (2) This subdivision ~~shall~~ *does* not apply when a full, separate,
17 and consecutive term is imposed pursuant to any other ~~provision~~
18 ~~of law.~~

19 *SEC. 29. Section 667.51 of the Penal Code is amended to read:*

20 667.51. (a) ~~Any~~ A person who is convicted of violating Section
21 288 or 288.5 shall receive a five-year enhancement for a prior
22 conviction of an offense specified in subdivision (b).

23 (b) Section 261, ~~262~~, 264.1, 269, 285, 286, 287, 288, 288.5, or
24 289, former Section 262 *or* 288a, or any offense committed in
25 another jurisdiction that includes all of the elements of any of the
26 offenses specified in this subdivision.

27 (c) A violation of Section 288 or 288.5 by a person who has
28 been previously convicted two or more times of an offense
29 specified in subdivision (b) shall be punished by imprisonment in
30 the state prison for 15 years to life.

31 *SEC. 30. Section 667.6 of the Penal Code is amended to read:*

32 667.6. (a) ~~Any~~ A person who is convicted of an offense
33 specified in subdivision (e) and who has been convicted previously
34 of any of those offenses shall receive a five-year enhancement for
35 each of those prior convictions.

36 (b) ~~Any~~ A person who is convicted of an offense specified in
37 subdivision (e) and who has served two or more prior prison terms
38 as defined in Section 667.5 for any of those offenses shall receive
39 a 10-year enhancement for each of those prior terms.

1 (c) In lieu of the term provided in Section 1170.1, a full,
2 separate, and consecutive term may be imposed for each violation
3 of an offense specified in subdivision (e) if the crimes involve the
4 same victim on the same occasion. A term may be imposed
5 consecutively pursuant to this subdivision if a person is convicted
6 of at least one offense specified in subdivision (e). If the term is
7 imposed consecutively pursuant to this subdivision, it shall be
8 served consecutively to any other term of imprisonment, and shall
9 commence from the time the person otherwise would have been
10 released from imprisonment. The term shall not be included in any
11 determination pursuant to Section 1170.1. Any other term imposed
12 subsequent to that term shall not be merged therein but shall
13 commence at the time the person otherwise would have been
14 released from prison.

15 (d) (1) A full, separate, and consecutive term shall be imposed
16 for each violation of an offense specified in subdivision (e) if the
17 crimes involve separate victims or involve the same victim on
18 separate occasions.

19 (2) In determining whether crimes against a single victim were
20 committed on separate occasions under this subdivision, the court
21 shall consider whether, between the commission of one sex crime
22 and another, the defendant had a reasonable opportunity to reflect
23 upon ~~his or her~~ *the defendant's* actions and nevertheless resumed
24 sexually assaultive behavior. Neither the duration of time between
25 crimes, nor whether or not the defendant lost or abandoned ~~his or~~
26 ~~her~~ *the* opportunity to attack, shall be, in and of itself, determinative
27 on the issue of whether the crimes in question occurred on separate
28 occasions.

29 (3) The term shall be served consecutively to any other term
30 of imprisonment and shall commence from the time the person
31 otherwise would have been released from imprisonment. The term
32 shall not be included in any determination pursuant to Section
33 1170.1. Any other term imposed subsequent to that term shall not
34 be merged therein but shall commence at the time the person
35 otherwise would have been released from prison.

36 (e) This section shall apply to the following offenses:

37 (1) Rape, in violation of paragraph (2), (3), (6), or (7) of
38 subdivision (a) of Section 261.

39 (2) ~~Spousal rape,~~ *Rape*, in violation of paragraph (1), (4), or (5)
40 of subdivision (a) of *former* Section 262.

1 (3) ~~Rape, spousal rape,~~ *Rape* or sexual penetration, in concert,
2 in violation of Section 264.1.

3 (4) Sodomy, in violation of paragraph (2) or (3) of subdivision
4 (c), or subdivision (d) or (k), of Section 286.

5 (5) Lewd or lascivious act, in violation of subdivision (b) of
6 Section 288.

7 (6) Continuous sexual abuse of a child, in violation of Section
8 288.5.

9 (7) Oral copulation, in violation of paragraph (2) or (3) of
10 subdivision (c), or subdivision (d) or (k), of Section 287 or of
11 former Section 288a.

12 (8) Sexual penetration, in violation of subdivision (a) or (g) of
13 Section 289.

14 (9) As a present offense under subdivision (c) or (d), assault
15 with intent to commit a specified sexual offense, in violation of
16 Section 220.

17 (10) As a prior conviction under subdivision (a) or (b), an
18 offense committed in another jurisdiction that includes all of the
19 elements of an offense specified in this subdivision.

20 (f) In addition to any enhancement imposed pursuant to
21 subdivision (a) or (b), the court may also impose a fine not to
22 exceed twenty thousand dollars (\$20,000) for anyone sentenced
23 under those provisions. The fine imposed and collected pursuant
24 to this subdivision shall be deposited in the Victim-Witness
25 Assistance Fund to be available for appropriation to fund child
26 sexual exploitation and child sexual abuse victim counseling
27 centers and prevention programs established pursuant to Section
28 13837. If the court orders a fine to be imposed pursuant to this
29 subdivision, the actual administrative cost of collecting that fine,
30 not to exceed 2 percent of the total amount paid, may be paid into
31 the general fund of the county treasury for the use and benefit of
32 the county.

33 *SEC. 31. Section 667.61 of the Penal Code is amended to read:*

34 667.61. (a) Except as provided in subdivision (j), (l), or (m),
35 ~~any~~ *a* person who is convicted of an offense specified in
36 subdivision (c) under one or more of the circumstances specified
37 in subdivision (d) or under two or more of the circumstances
38 specified in subdivision (e) shall be punished by imprisonment in
39 the state prison for 25 years to life.

1 (b) Except as provided in subdivision (a), (j), (l), or (m), ~~any a~~
2 person who is convicted of an offense specified in subdivision (c)
3 under one of the circumstances specified in subdivision (e) shall
4 be punished by imprisonment in the state prison for 15 years to
5 life.

6 (c) This section shall apply to any of the following offenses:

7 (1) Rape, in violation of paragraph (2) or (6) of subdivision (a)
8 of Section 261.

9 ~~Spousal rape,~~ Rape, in violation of paragraph (1) or (4) of
10 subdivision (a) of *former* Section 262.

11 (3) ~~Rape, spousal rape,~~ Rape or sexual penetration, in concert,
12 in violation of Section 264.1.

13 (4) Lewd or lascivious act, in violation of subdivision (b) of
14 Section 288.

15 (5) Sexual penetration, in violation of subdivision (a) of Section
16 289.

17 (6) Sodomy, in violation of paragraph (2) or (3) of subdivision
18 (c), or subdivision (d), of Section 286.

19 (7) Oral copulation, in violation of paragraph (2) or (3) of
20 subdivision (c), or subdivision (d), of Section 287 or former Section
21 288a.

22 (8) Lewd or lascivious act, in violation of subdivision (a) of
23 Section 288.

24 (9) Continuous sexual abuse of a child, in violation of Section
25 288.5.

26 (d) The following circumstances shall apply to the offenses
27 specified in subdivision (c):

28 (1) The defendant has been previously convicted of an offense
29 specified in subdivision (c), including an offense committed in
30 another jurisdiction that includes all of the elements of an offense
31 specified in subdivision (c).

32 (2) The defendant kidnapped the victim of the present offense
33 and the movement of the victim substantially increased the risk of
34 harm to the victim over and above that level of risk necessarily
35 inherent in the underlying offense in subdivision (c).

36 (3) The defendant inflicted aggravated mayhem or torture on
37 the victim or another person in the commission of the present
38 offense in violation of Section 205 or 206.

39 (4) The defendant committed the present offense during the
40 commission of a burglary of the first degree, as defined in

1 subdivision (a) of Section 460, with intent to commit an offense
2 specified in subdivision (c).

3 (5) The defendant committed the present offense in violation
4 of Section 264.1, subdivision (d) of Section 286, or subdivision
5 (d) of Section 287 or former Section 288a, and, in the commission
6 of that offense, any person committed any act described in
7 paragraph (2), (3), or (4) of this subdivision.

8 (6) The defendant personally inflicted great bodily injury on
9 the victim or another person in the commission of the present
10 offense in violation of Section 12022.53, 12022.7, or 12022.8.

11 (7) The defendant personally inflicted bodily harm on the victim
12 who was under 14 years of age.

13 (e) The following circumstances shall apply to the offenses
14 specified in subdivision (c):

15 (1) Except as provided in paragraph (2) of subdivision (d), the
16 defendant kidnapped the victim of the present offense in violation
17 of Section 207, 209, or 209.5.

18 (2) Except as provided in paragraph (4) of subdivision (d), the
19 defendant committed the present offense during the commission
20 of a burglary in violation of Section 459.

21 (3) The defendant personally used a dangerous or deadly weapon
22 or a firearm in the commission of the present offense in violation
23 of Section 12022, 12022.3, 12022.5, or 12022.53.

24 (4) The defendant has been convicted in the present case or
25 cases of committing an offense specified in subdivision (c) against
26 more than one victim.

27 (5) The defendant engaged in the tying or binding of the victim
28 or another person in the commission of the present offense.

29 (6) The defendant administered a controlled substance to the
30 victim in the commission of the present offense in violation of
31 Section 12022.75.

32 (7) The defendant committed the present offense in violation
33 of Section 264.1, subdivision (d) of Section 286, or subdivision
34 (d) of Section 287 or former Section 288a, and, in the commission
35 of that offense, any person committed ~~any~~ *an* act described in
36 paragraph (1), (2), (3), (5), or (6) of this subdivision or paragraph
37 (6) of subdivision (d).

38 (f) If only the minimum number of circumstances specified in
39 subdivision (d) or (e) that are required for the punishment provided
40 in subdivision (a), (b), (j), (l), or (m) to apply have been pled and

1 proved, that circumstance or those circumstances shall be used as
2 the basis for imposing the term provided in subdivision (a), (b),
3 (j), (l), or (m) whichever is greater, rather than being used to impose
4 the punishment authorized under any other ~~provision of law~~, unless
5 another ~~provision of law~~ provides for a greater penalty or the
6 punishment under another ~~provision of law~~ can be imposed in
7 addition to the punishment provided by this section. However, if
8 any additional circumstance or circumstances specified in
9 subdivision (d) or (e) have been pled and proved, the minimum
10 number of circumstances shall be used as the basis for imposing
11 the term provided in subdivision (a), (j), or (l) and any other
12 additional circumstance or circumstances shall be used to impose
13 any punishment or enhancement authorized under any other
14 ~~provision of law~~.

15 (g) Notwithstanding Section 1385 or any other ~~provision of law~~,
16 the court shall not strike any allegation, admission, or finding of
17 any of the circumstances specified in subdivision (d) or (e) for any
18 person who is subject to punishment under this section.

19 (h) Notwithstanding any other ~~provision of law~~, probation shall
20 not be granted to, nor shall the execution or imposition of sentence
21 be suspended for, ~~any~~ a person who is subject to punishment under
22 this section.

23 (i) For any offense specified in paragraphs (1) to (7), inclusive,
24 of subdivision (c), or in paragraphs (1) to (6), inclusive, of
25 subdivision (n), the court shall impose a consecutive sentence for
26 each offense that results in a conviction under this section if the
27 crimes involve separate victims or involve the same victim on
28 separate occasions as defined in subdivision (d) of Section 667.6.

29 (j) (1) ~~Any~~ A person who is convicted of an offense specified
30 in subdivision (c), with the exception of a violation of subdivision
31 (a) of Section 288, upon a victim who is a child under 14 years of
32 age under one or more of the circumstances specified in subdivision
33 (d) or under two or more of the circumstances specified in
34 subdivision (e), shall be punished by imprisonment in the state
35 prison for life without the possibility of parole. Where the person
36 was under 18 years of age at the time of the offense, the person
37 shall be punished by imprisonment in the state prison for 25 years
38 to life.

39 (2) ~~Any~~ A person who is convicted of an offense specified in
40 subdivision (c) under one of the circumstances specified in

1 subdivision (e), upon a victim who is a child under 14 years of
2 age, shall be punished by imprisonment in the state prison for 25
3 years to life.

4 (k) As used in this section, “bodily harm” means any substantial
5 physical injury resulting from the use of force that is more than
6 the force necessary to commit an offense specified in subdivision
7 (c).

8 (l) ~~Any~~ A person who is convicted of an offense specified in
9 subdivision (n) under one or more of the circumstances specified
10 in subdivision (d) or under two or more of the circumstances
11 specified in subdivision (e), upon a victim who is a minor 14 years
12 of age or older shall be punished by imprisonment in the state
13 prison for life without the possibility of parole. If the person who
14 was convicted was under 18 years of age at the time of the offense,
15 ~~he or she~~ *the person* shall be punished by imprisonment in the state
16 prison for 25 years to life.

17 (m) ~~Any~~ A person who is convicted of an offense specified in
18 subdivision (n) under one of the circumstances specified in
19 subdivision (e) against a minor 14 years of age or older shall be
20 punished by imprisonment in the state prison for 25 years to life.

21 (n) Subdivisions (l) and (m) shall apply to any of the following
22 offenses:

23 (1) Rape, in violation of paragraph (2) of subdivision (a) of
24 Section 261.

25 (2) ~~Spousal rape, Rape~~, in violation of paragraph (1) of
26 subdivision (a) of *former* Section 262.

27 (3) ~~Rape, spousal rape, Rape~~ or sexual penetration, in concert,
28 in violation of Section 264.1.

29 (4) Sexual penetration, in violation of paragraph (1) of
30 subdivision (a) of Section 289.

31 (5) Sodomy, in violation of paragraph (2) of subdivision (c) of
32 Section 286, or in violation of subdivision (d) of Section 286.

33 (6) Oral copulation, in violation of paragraph (2) of subdivision
34 (c) of Section 287 or former Section 288a, or in violation of
35 subdivision (d) of Section 287 or former Section 288a.

36 (o) The penalties provided in this section shall apply only if the
37 existence of any circumstance specified in subdivision (d) or (e)
38 is alleged in the accusatory pleading pursuant to this section, and
39 is either admitted by the defendant in open court or found to be
40 true by the trier of fact.

1 SEC. 32. Section 667.71 of the Penal Code is amended to read:

2 667.71. (a) For the purpose of this section, a habitual sexual
3 offender is a person who has been previously convicted of one or
4 more of the offenses specified in subdivision (c) and who is
5 convicted in the present proceeding of one of those offenses.

6 (b) A habitual sexual offender shall be punished by
7 imprisonment in the state prison for 25 years to life.

8 (c) This section shall apply to any of the following offenses:

9 (1) Rape, in violation of paragraph (2) or (6) of subdivision (a)
10 of Section 261.

11 (2) ~~Spousal rape~~, Rape, in violation of paragraph (1) or (4) of
12 subdivision (a) of former Section 262.

13 (3) ~~Rape, spousal rape~~, Rape or sexual penetration, in concert,
14 in violation of Section 264.1.

15 (4) Lewd or lascivious act, in violation of subdivision (a) or (b)
16 of Section 288.

17 (5) Sexual penetration, in violation of subdivision (a) or (j) of
18 Section 289.

19 (6) Continuous sexual abuse of a child, in violation of Section
20 288.5.

21 (7) Sodomy, in violation of subdivision (c) or (d) of Section
22 286.

23 (8) Oral copulation, in violation of subdivision (c) or (d) of
24 Section 287 or of former Section 288a.

25 (9) Kidnapping, in violation of subdivision (b) of Section 207.

26 (10) Kidnapping, in violation of former subdivision (d) of
27 Section 208 (kidnapping to commit specified sex offenses).

28 (11) Kidnapping, in violation of subdivision (b) of Section 209
29 with the intent to commit a specified sexual offense.

30 (12) Aggravated sexual assault of a child, in violation of Section
31 269.

32 (13) An offense committed in another jurisdiction that includes
33 all of the elements of an offense specified in this subdivision.

34 (d) Notwithstanding Section 1385 or any other ~~provision of law~~,
35 the court shall not strike any allegation, admission, or finding of
36 any prior conviction specified in subdivision (c) for ~~any~~ a person
37 who is subject to punishment under this section.

38 (e) Notwithstanding any other ~~provision of law~~, probation shall
39 not be granted to, nor shall the execution or imposition of sentence

1 be suspended for, ~~any~~ a person who is subject to punishment under
 2 this section.

3 (f) This section shall apply only if the defendant’s status as a
 4 habitual sexual offender is alleged in the accusatory pleading, and
 5 either admitted by the defendant in open court, or found to be true
 6 by the trier of fact.

7 *SEC. 33. Section 667.8 of the Penal Code is amended to read:*

8 667.8. (a) Except as provided in subdivision (b), ~~any~~ a person
 9 convicted of a felony violation of Section 261, ~~262~~, 264.1, 286,
 10 287, or 289 or former Section 262 or 288a who, for the purpose
 11 of committing that sexual offense, kidnapped the victim in violation
 12 of Section 207 or 209, shall be punished by an additional term of
 13 nine years.

14 (b) ~~Any~~ A person convicted of a felony violation of subdivision
 15 (c) of Section 286, subdivision (c) of Section 287 or former Section
 16 288a, or Section 288 who, for the purpose of committing that
 17 sexual offense, kidnapped the victim, who was under ~~the age of~~
 18 14 years *of age* at the time of the offense, in violation of Section
 19 207 or 209, shall be punished by an additional term of 15 years.
 20 This subdivision ~~is~~ *does not applicable apply* to conduct proscribed
 21 by Section 277, 278, or 278.5.

22 (c) The following shall govern the imposition of an enhancement
 23 pursuant to this section:

24 (1) Only one enhancement shall be imposed for a victim per
 25 incident.

26 (2) If there are two or more victims, one enhancement can be
 27 imposed for each victim per incident.

28 (3) The enhancement may be in addition to the punishment for
 29 either, but not both, of the following:

30 (A) A violation of Section 207 or 209.

31 (B) A violation of the sexual offenses enumerated in this section.

32 *SEC. 34. Section 667.9 of the Penal Code is amended to read:*

33 667.9. (a) ~~Any~~ A person who commits one or more of the
 34 crimes specified in subdivision (c) against a person who is 65 years
 35 of age or older, or against a person who is blind, deaf,
 36 developmentally disabled, a paraplegic, or a quadriplegic, or
 37 against a person who is under ~~the age 14 years of 14 years~~, *age*,
 38 and that disability or condition is known or reasonably should be
 39 known to the person committing the crime, shall receive a one-year
 40 enhancement for each violation.

- 1 (b) ~~Any~~ A person who commits a violation of subdivision (a)
2 and who has a prior conviction for any of the offenses specified
3 in subdivision (c), shall receive a two-year enhancement for each
4 violation in addition to the sentence provided under Section 667.
- 5 (c) Subdivisions (a) and (b) apply to the following crimes:
- 6 (1) Mayhem, in violation of Section 203 or 205.
 - 7 (2) Kidnapping, in violation of Section 207, 209, or 209.5.
 - 8 (3) Robbery, in violation of Section 211.
 - 9 (4) Carjacking, in violation of Section 215.
 - 10 (5) Rape, in violation of paragraph (2) or (6) of subdivision (a)
11 of Section 261.
 - 12 (6) ~~Spousal rape~~, *Rape*, in violation of paragraph (1) or (4) of
13 subdivision (a) of *former* Section 262.
 - 14 (7) ~~Rape, spousal rape~~, *Rape* or sexual penetration in concert,
15 in violation of Section 264.1.
 - 16 (8) Sodomy, in violation of paragraph (2) or (3) of subdivision
17 (c), or subdivision (d), of Section 286.
 - 18 (9) Oral copulation, in violation of paragraph (2) or (3) of
19 subdivision (c), or subdivision (d), of Section 287 or of former
20 Section 288a.
 - 21 (10) Sexual penetration, in violation of subdivision (a) of Section
22 289.
 - 23 (11) Burglary of the first degree, as defined in Section 460, in
24 violation of Section 459.
- 25 (d) As used in this section, “developmentally disabled” means
26 a severe, chronic disability of a person, which is all of the
27 following:
- 28 (1) Attributable to a mental or physical impairment or a
29 combination of mental and physical impairments.
 - 30 (2) Likely to continue indefinitely.
 - 31 (3) Results in substantial functional limitation in three or more
32 of the following areas of life activity:
 - 33 (A) Self-care.
 - 34 (B) Receptive and expressive language.
 - 35 (C) Learning.
 - 36 (D) Mobility.
 - 37 (E) Self-direction.
 - 38 (F) Capacity for independent living.
 - 39 (G) Economic self-sufficiency.
- 40 *SEC. 35. Section 679.02 of the Penal Code is amended to read:*

1 679.02. (a) The following *rights* are hereby established as the
2 statutory rights of victims and witnesses of crimes:

3 (1) To be notified as soon as feasible that a court proceeding to
4 which ~~he the victim or she witness~~ has been subpoenaed as a
5 witness will not proceed as scheduled, provided the prosecuting
6 attorney determines that the witness' attendance is not required.

7 (2) Upon request of the victim or a witness, to be informed by
8 the prosecuting attorney of the final disposition of the case, as
9 provided by Section 11116.10.

10 (3) For the victim, the victim's parents or guardian if the victim
11 is a minor, or the next of kin of the victim if the victim has died,
12 to be notified of all sentencing proceedings, and of the right to
13 appear, to reasonably express ~~his or her~~ *their* views, have those
14 views preserved by audio or video means as provided in Section
15 1191.16, and to have the court consider ~~his or her~~ *their* statements,
16 as provided by Sections 1191.1 and 1191.15.

17 (4) For the victim, the victim's parents or guardian if the victim
18 is a minor, or the next of kin of the victim if the victim has died,
19 to be notified of all juvenile disposition hearings in which the
20 alleged act would have been a felony if committed by an adult,
21 and of the right to attend and to express ~~his or her~~ *their* views, as
22 provided by Section 656.2 of the Welfare and Institutions Code.

23 (5) Upon request by the victim or the next of kin of the victim
24 if the victim has died, to be notified of any parole eligibility hearing
25 and of the right to appear, either personally as provided by Section
26 ~~3043 of this code, 3043,~~ or by other means as provided by Sections
27 3043.2 and ~~3043.25 of this code, 3043.25,~~ to reasonably express
28 ~~his or her~~ *their* views, and to have ~~his or her~~ *their* statements
29 considered, as provided by Section 3043 of this code and by
30 Section 1767 of the Welfare and Institutions Code.

31 (6) Upon request by the victim or the next of kin of the victim
32 if the crime was a homicide, to be notified of an inmate's placement
33 in a reentry or work furlough program, or notified of the inmate's
34 escape as provided by Section 11155.

35 (7) To be notified that ~~he or she~~ *a witness* may be entitled to
36 witness fees and mileage, as provided by Section 1329.1.

37 (8) For the victim, to be provided with information concerning
38 the victim's right to civil recovery and the opportunity to be
39 compensated from the Restitution Fund pursuant to Chapter 5

1 (commencing with Section 13959) of Part 4 of Division 3 of Title
2 2 of the Government Code and Section 1191.2 of this code.

3 (9) To the expeditious return of ~~his or her~~ property ~~which~~ *that*
4 has allegedly been stolen or embezzled, when it is no longer needed
5 as evidence, as provided by Chapter 12 (commencing with Section
6 1407) and Chapter 13 (commencing with Section 1417) of Title
7 10 of Part 2.

8 (10) To an expeditious disposition of the criminal action.

9 (11) To be notified, if applicable, in accordance with Sections
10 679.03 and 3058.8 if the defendant is to be placed on parole.

11 (12) For the victim, upon request, to be notified of any pretrial
12 disposition of the case, to the extent required by Section 28 of
13 Article I of the California Constitution.

14 (A) A victim may request to be notified of a pretrial disposition.

15 (B) The victim may be notified by any reasonable means
16 available.

17 ~~Nothing in this~~

18 *This* paragraph is *not* intended to affect the right of the people
19 and the defendant to an expeditious disposition as provided in
20 Section 1050.

21 (13) For the victim, to be notified by the district attorney's office
22 of the right to request, upon a form provided by the district
23 attorney's office, and receive a notice pursuant to paragraph (14),
24 if the defendant is convicted of any of the following offenses:

25 (A) Assault with intent to commit rape, sodomy, oral copulation,
26 or any violation of Section 264.1, 288, or 289, in violation of
27 Section 220.

28 (B) A violation of Section 207 or 209 committed with the intent
29 to commit a violation of Section 261, ~~262~~, 286, 287, 288, or 289,
30 or former Section 262 *or* 288a.

31 (C) Rape, in violation of Section 261.

32 (D) Oral copulation, in violation of Section 287 or former
33 Section 288a.

34 (E) Sodomy, in violation of Section 286.

35 (F) A violation of Section 288.

36 (G) A violation of Section 289.

37 (14) When a victim has requested notification pursuant to
38 paragraph (13), the sheriff shall inform the victim that the person
39 who was convicted of the offense has been ordered to be placed

1 on probation, and give the victim notice of the proposed date upon
 2 which the person will be released from the custody of the sheriff.

3 (b) The rights set forth in subdivision (a) shall be set forth in
 4 the information and educational materials prepared pursuant to
 5 Section 13897.1. The information and educational materials shall
 6 be distributed to local law enforcement agencies and local victims’
 7 programs by the Victims’ Legal Resource Center established
 8 pursuant to Chapter 11 (commencing with Section 13897) of Title
 9 6 of Part 4.

10 (c) Local law enforcement agencies shall make available copies
 11 of the materials described in subdivision (b) to victims and
 12 witnesses.

13 (d) ~~Nothing in this~~ This section is *not* intended to affect the
 14 rights and services provided to victims and witnesses by the local
 15 assistance centers for victims and witnesses.

16 (e) The court shall not release statements, made pursuant to
 17 paragraph (3) or (4) of subdivision (a), to the public prior to the
 18 statement being heard in court.

19 *SEC. 36. Section 680 of the Penal Code is amended to read:*
 20 680. (a) This section shall be known as and may be cited as
 21 the “Sexual Assault Victims’ DNA Bill of Rights.”

22 (b) The Legislature finds and declares all of the following:

23 (1) Deoxyribonucleic acid (DNA) and forensic identification
 24 analysis is a powerful law enforcement tool for identifying and
 25 prosecuting sexual assault offenders.

26 (2) Existing law requires an adult arrested for or charged with
 27 a felony and a juvenile adjudicated for a felony to submit DNA
 28 samples as a result of that arrest, charge, or adjudication.

29 (3) Victims of sexual assaults have a strong interest in the
 30 investigation and prosecution of their cases.

31 (4) Law enforcement agencies have an obligation to victims of
 32 sexual assaults in the proper handling, retention, and timely DNA
 33 testing of rape kit evidence or other crime scene evidence and to
 34 be responsive to victims concerning the developments of forensic
 35 testing and the investigation of their cases.

36 (5) The growth of the Department of Justice’s Cal-DNA
 37 databank and the national databank through the Combined DNA
 38 Index System (CODIS) makes it possible for many sexual assault
 39 perpetrators to be identified after their first offense, provided that
 40 rape kit evidence is analyzed in a timely manner.

1 (6) Timely DNA analysis of rape kit evidence is a core public
2 safety issue affecting men, women, and children in the State of
3 California. It is the intent of the Legislature, in order to further
4 public safety, to encourage DNA analysis of rape kit evidence
5 within the time limits imposed by subparagraphs (A) and (B) of
6 paragraph (1) of subdivision (g) of Section 803.

7 (c) In order to ensure that sexual assault forensic evidence is
8 analyzed within the two-year timeframe required by subparagraphs
9 (A) and (B) of paragraph (1) of subdivision (g) of Section 803 and
10 to ensure the longest possible statute of limitations for sex offenses,
11 including sex offenses designated pursuant to those subparagraphs,
12 the following shall occur:

13 (1) A law enforcement agency in whose jurisdiction a sex
14 offense specified in Section 261, 261.5, ~~262~~, 286, 287, or 289 or
15 former Section 262 or 288a occurred shall do one of the following
16 for any sexual assault forensic evidence received by the law
17 enforcement agency on or after January 1, 2016:

18 (A) Submit sexual assault forensic evidence to the crime lab
19 within 20 days after it is booked into evidence.

20 (B) Ensure that a rapid turnaround DNA program is in place to
21 submit forensic evidence collected from the victim of a sexual
22 assault directly from the medical facility where the victim is
23 examined to the crime lab within five days after the evidence is
24 obtained from the victim.

25 (2) The crime lab shall do one of the following for any sexual
26 assault forensic evidence received by the crime lab on or after
27 January 1, 2016.

28 (A) Process sexual assault forensic evidence, create DNA
29 profiles when able, and upload qualifying DNA profiles into
30 CODIS as soon as practically possible, but no later than 120 days
31 after initially receiving the evidence.

32 (B) Transmit the sexual assault forensic evidence to another
33 crime lab as soon as practically possible, but no later than 30 days
34 after initially receiving the evidence, for processing of the evidence
35 for the presence of DNA. If a DNA profile is created, the
36 transmitting crime lab shall upload the profile into CODIS as soon
37 as practically possible, but no longer than 30 days after being
38 notified about the presence of DNA.

39 (3) This subdivision does not require a lab to test all items of
40 forensic evidence obtained in a sexual assault forensic evidence

1 examination. A lab is considered to be in compliance with the
2 guidelines of this section when representative samples of the
3 evidence are processed by the lab in an effort to detect the foreign
4 DNA of the perpetrator.

5 (4) This section does not require a DNA profile to be uploaded
6 into CODIS if the DNA profile does not meet federal guidelines
7 regarding the uploading of DNA profiles into CODIS.

8 (5) For purposes of this section, a “rapid turnaround DNA
9 program” is a program for the training of sexual assault team
10 personnel in the selection of representative samples of forensic
11 evidence from the victim to be the best evidence, based on the
12 medical evaluation and patient history, the collection and
13 preservation of that evidence, and the transfer of the evidence
14 directly from the medical facility to the crime lab, which is adopted
15 pursuant to a written agreement between the law enforcement
16 agency, the crime lab, and the medical facility where the sexual
17 assault team is based.

18 (6) For the purpose of this section, “law enforcement” means
19 the law enforcement agency with the primary responsibility for
20 investigating an alleged sexual assault.

21 (d) (1) Upon the request of a sexual assault victim, the law
22 enforcement agency investigating a violation of Section 261, 261.5,
23 ~~262~~, 286, 287, or 289 or of former Section 262 *or* 288a shall inform
24 the victim of the status of the DNA testing of the rape kit evidence
25 or other crime scene evidence from the victim’s case. The law
26 enforcement agency may, at its discretion, require that the victim’s
27 request be in writing. The law enforcement agency shall respond
28 to the victim’s request with either an oral or written
29 communication, or by email, if an email address is available.
30 ~~Nothing in this~~ *This subdivision requires does not require* that the
31 law enforcement agency communicate with the victim or the
32 victim’s designee regarding the status of DNA testing absent a
33 specific request from the victim or the victim’s designee.

34 (2) Subject to the commitment of sufficient resources to respond
35 to requests for information, sexual assault victims have the
36 following rights:

37 (A) The right to be informed whether or not a DNA profile of
38 the assailant was obtained from the testing of the rape kit evidence
39 or other crime scene evidence from their case.

1 (B) The right to be informed whether or not the DNA profile
2 of the assailant developed from the rape kit evidence or other crime
3 scene evidence has been entered into the Department of Justice
4 Data Bank of case evidence.

5 (C) The right to be informed whether or not there is a match
6 between the DNA profile of the assailant developed from the rape
7 kit evidence or other crime scene evidence and a DNA profile
8 contained in the Department of Justice Convicted Offender DNA
9 Data Base, provided that disclosure would not impede or
10 compromise an ongoing investigation.

11 (3) This subdivision is intended to encourage law enforcement
12 agencies to notify victims of information ~~which~~ *that* is in their
13 possession. It is not intended to affect the manner of or frequency
14 with which the Department of Justice provides this information to
15 law enforcement agencies.

16 (e) If the law enforcement agency does not analyze DNA
17 evidence within six months prior to the time limits established by
18 subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of
19 Section 803, a victim of a sexual assault offense specified in
20 Section 261, 261.5, ~~262~~, 286, 287, or 289 or former Section 262
21 *or* 288a shall be informed, either orally or in writing, of that fact
22 by the law enforcement agency.

23 (f) (1) If the law enforcement agency intends to destroy or
24 dispose of rape kit evidence or other crime scene evidence from
25 an unsolved sexual assault case, a victim of a violation of Section
26 261, 261.5, ~~262~~, 286, 287, or 289 or former Section 262 *or* 288a
27 shall be given written notification by the law enforcement agency
28 of that intention.

29 (2) A law enforcement agency shall not destroy or dispose of
30 rape kit evidence or other crime scene evidence from an unsolved
31 sexual assault case before at least 20 years, or if the victim was
32 under 18 years of age at the time of the alleged offense, before the
33 victim's 40th birthday.

34 (g) Written notification under subdivision (e) or (f) shall be
35 made at least 60 days prior to the destruction or disposal of the
36 rape kit evidence or other crime scene evidence from an unsolved
37 sexual assault case.

38 (h) A sexual assault victim may designate a sexual assault victim
39 advocate, or other support person of the victim's choosing, to act

1 as a recipient of the above information required to be provided by
2 this section.

3 (i) It is the intent of the Legislature that a law enforcement
4 agency responsible for providing information under subdivision
5 (d) do so in a timely manner and, upon request of the victim or the
6 victim's designee, advise the victim or the victim's designee of
7 any significant changes in the information of which the law
8 enforcement agency is aware. In order to be entitled to receive
9 notice under this section, the victim or the victim's designee shall
10 keep appropriate authorities informed of the name, address,
11 telephone number, and email address of the person to whom the
12 information should be provided, and any changes of the name,
13 address, telephone number, and email address, if an email address
14 is available.

15 (j) A defendant or person accused or convicted of a crime against
16 the victim shall have no standing to object to any failure to comply
17 with this section. The failure to provide a right or notice to a sexual
18 assault victim under this section may not be used by a defendant
19 to seek to have the conviction or sentence set aside.

20 (k) The sole civil or criminal remedy available to a sexual assault
21 victim for a law enforcement agency's failure to fulfill its
22 responsibilities under this section is standing to file a writ of
23 mandamus to require compliance with subdivision (e) or (f).

24 *SEC. 37. Section 784.7 of the Penal Code is amended to read:*

25 784.7. (a) If more than one violation of Section 220, except
26 assault with intent to commit mayhem, 261, ~~262~~, 264.1, 269, 286,
27 287, 288, 288.5, 288.7, or 289 or former Section 262 or 288a
28 occurs in more than one jurisdictional territory, the jurisdiction of
29 any of those offenses, and for any offenses properly joinable with
30 that offense, is in any jurisdiction where at least one of the offenses
31 occurred, subject to a hearing, pursuant to Section 954, within the
32 jurisdiction of the proposed trial. At the Section 954 hearing, the
33 prosecution shall present written evidence that all district attorneys
34 in counties with jurisdiction of the offenses agree to the venue.
35 Charged offenses from jurisdictions where there is not a written
36 agreement from the district attorney shall be returned to that
37 jurisdiction.

38 (b) If more than one violation of Section 243.4, 261.5, 273a,
39 273.5, or 646.9 occurs in more than one jurisdictional territory,
40 and the defendant and the victim are the same for all of the

1 offenses, the jurisdiction of any of those offenses and for any
2 offenses properly joinable with that offense, is in any jurisdiction
3 where at least one of the offenses occurred.

4 (c) If more than one violation of Section 236.1, 266h, or 266i
5 occurs in more than one jurisdictional territory, the jurisdiction of
6 any of those offenses, and for any offenses properly joinable with
7 that offense, is in any jurisdiction where at least one of the offenses
8 occurred, subject to a hearing pursuant to Section 954, within the
9 jurisdiction of the proposed trial. At the Section 954 hearing, the
10 prosecution shall present written evidence that all district attorneys
11 in counties with jurisdiction of the offenses agree to the venue.
12 Charged offenses from jurisdictions where there is not a written
13 agreement from the district attorney shall be returned to that
14 jurisdiction. In determining whether all counts in the complaint
15 should be joined in one county for prosecution, the court shall
16 consider the location and complexity of the likely evidence, where
17 the majority of the offenses occurred, the rights of the defendant
18 and the people, and the convenience of, or hardship to, the victim
19 or victims and witnesses.

20 *SEC. 38. Section 799 of the Penal Code is amended to read:*

21 799. (a) Prosecution for an offense punishable by death or by
22 imprisonment in the state prison for life or for life without the
23 possibility of parole, or for the embezzlement of public money,
24 may be commenced at any time.

25 (b) (1) Prosecution for a felony offense described in paragraph
26 (1), (2), (3), (4), (6), or (7) of subdivision (a) of Section 261,
27 paragraph (1), (2), (3), (4), or (5) of subdivision (a) of *former*
28 Section 262, Section 264.1, paragraph (2) or (3) of subdivision (c)
29 of, or subdivision (d), (f), (g), (i), or (k) of, Section 286, paragraph
30 (2) or (3) of subdivision (c) of, or subdivision (d), (f), (g), (i), or
31 (k) of, Section 287 or former Section 288a, subdivision (a) of
32 Section 288 involving substantial sexual conduct as defined in
33 subdivision (b) of Section 1203.066, subdivision (b) of Section
34 288, Section 288.5, or subdivision (a), (b), (d), (e), or (g) of Section
35 289 may be commenced at any time.

36 (2) This subdivision applies to crimes that were committed on
37 or after January 1, 2017, and to crimes for which the statute of
38 limitations that was in effect prior to January 1, 2017, has not run
39 as of January 1, 2017.

1 (c) This section applies ~~in any case in which~~ *when* the defendant
 2 was a minor at the time of the commission of the offense and the
 3 prosecuting attorney could have petitioned the court for a fitness
 4 hearing pursuant to Section 707 of the Welfare and Institutions
 5 Code.

6 *SEC. 39. Section 868.5 of the Penal Code is amended to read:*

7 868.5. (a) Notwithstanding any other law, a prosecuting
 8 witness in a case involving a violation or attempted violation of
 9 Section 187, 203, 205, or 207, subdivision (b) of Section 209,
 10 Section 211, 215, 220, 236.1, 240, 242, 243.4, 245, 261, ~~262~~, 266,
 11 266a, 266b, 266c, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 266k,
 12 267, 269, 273a, 273d, 273.5, 273.6, 278, 278.5, 285, 286, 287,
 13 288, 288.5, 288.7, 289, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6,
 14 311.10, 311.11, 422, 646.9, or 647.6, former Section 262, 277,
 15 288a, or 647a, subdivision (1) of Section 314, or subdivision (b),
 16 (d), or (e) of Section 368 when the prosecuting witness is the elder
 17 or dependent adult, shall be entitled, for support, to the attendance
 18 of up to two persons of ~~his or her~~ *the prosecuting witness'* own
 19 choosing, one of whom may be a witness, at the preliminary
 20 hearing and at the trial, or at a juvenile court proceeding, during
 21 the testimony of the prosecuting witness. Only one of those support
 22 persons may accompany the witness to the witness stand, although
 23 the other may remain in the courtroom during the witness'
 24 testimony. The person or persons so chosen shall not be a person
 25 described in Section 1070 of the Evidence Code unless the person
 26 or persons are related to the prosecuting witness as a parent,
 27 guardian, or sibling and do not make notes during the hearing or
 28 proceeding.

29 (b) If the person or persons so chosen are also witnesses, the
 30 prosecution shall present evidence that the person's attendance is
 31 both desired by the prosecuting witness for support and will be
 32 helpful to the prosecuting witness. Upon that showing, the court
 33 shall grant the request unless information presented by the
 34 defendant or noticed by the court establishes that the support
 35 person's attendance during the testimony of the prosecuting witness
 36 would pose a substantial risk of influencing or affecting the content
 37 of that testimony. In the case of a juvenile court proceeding, the
 38 judge shall inform the support person or persons that juvenile court
 39 proceedings are confidential and may not be discussed with anyone
 40 not in attendance at the proceedings. In all cases, the judge shall

1 admonish the support person or persons to not prompt, sway, or
2 influence the witness in any way. ~~Nothing in this~~ This section shall
3 *does not* preclude a court from exercising its discretion to remove
4 a person from the courtroom whom it believes is prompting,
5 swaying, or influencing the witness.

6 (c) The testimony of the person or persons so chosen who are
7 also witnesses shall be presented before the testimony of the
8 prosecuting witness. The prosecuting witness shall be excluded
9 from the courtroom during that testimony. Whenever the evidence
10 given by that person or those persons would be subject to exclusion
11 because it has been given before the corpus delicti has been
12 established, the evidence shall be admitted subject to the court's
13 or the defendant's motion to strike that evidence from the record
14 if the corpus delicti is not later established by the testimony of the
15 prosecuting witness.

16 *SEC. 40. Section 1048 of the Penal Code is amended to read:*

17 1048. (a) The issues on the calendar shall be disposed of in
18 the following order, unless for good cause the court directs an
19 action to be tried out of its order:

20 (1) Prosecutions for felony, when the defendant is in custody.

21 (2) Prosecutions for misdemeanor, when the defendant is in
22 custody.

23 (3) Prosecutions for felony, when the defendant is on bail.

24 (4) Prosecutions for misdemeanor, when the defendant is on
25 bail.

26 (b) Notwithstanding subdivision (a), all criminal actions in
27 which (1) a minor is detained as a material witness or is the victim
28 of the alleged offense, (2) a person who was 70 years of age or
29 older at the time of the alleged offense or is a dependent adult, as
30 defined in subdivision (h) of Section 368, was a witness to, or is
31 the victim of, the alleged offense or (3) any person is a victim of
32 an alleged violation of Section 261, ~~262~~, 264.1, 273a, 273d, 285,
33 286, 287, 288, or 289 or former Section 262 *or* 288a, committed
34 by the use of force, violence, or the threat thereof, shall be given
35 precedence over all other criminal actions in the order of trial. In
36 those actions, continuations shall be granted by the court only after
37 a hearing and determination of the necessity thereof, and in any
38 event, the trial shall be commenced within 30 days after
39 arraignment, unless for good cause the court shall direct the action
40 to be continued, after a hearing and determination of the necessity

1 of the continuance, and states the findings for a determination of
2 good cause on the record.

3 ~~(c) Nothing in this~~ *This section shall be deemed to does not*
4 provide a statutory right to a trial within 30 days.

5 *SEC. 41. Section 1127e of the Penal Code is amended to read:*

6 1127e. The term “unchaste character” shall not be used by any
7 court in any criminal case in which the defendant is charged with
8 a violation of Section ~~261, 261 or 261.5, or 262 of the Penal Code,~~
9 ~~or attempt to commit or assault with intent to commit any crime~~
10 defined in any of these sections, in any instruction to the jury.

11 *SEC. 42. Section 1170.12 of the Penal Code is amended to*
12 *read:*

13 ~~1170.12. Aggregate and consecutive terms for multiple~~
14 ~~convictions; prior conviction as prior felony; commitment and~~
15 ~~other enhancements or punishment.~~

16 1170.12. (a) Notwithstanding any other law, if a defendant
17 has been convicted of a felony and it has been pled and proved
18 that the defendant has one or more prior serious or violent felony
19 convictions, as defined in subdivision (b), the court shall adhere
20 to each of the following:

21 (1) There shall not be an aggregate term limitation for purposes
22 of consecutive sentencing for any subsequent felony conviction.

23 (2) Probation for the current offense shall not be granted, nor
24 shall execution or imposition of the sentence be suspended for any
25 prior offense.

26 (3) The length of time between the prior serious or violent felony
27 conviction and the current felony conviction shall not affect the
28 imposition of sentence.

29 (4) There shall not be a commitment to any other facility other
30 than the state prison. Diversion shall not be granted nor shall the
31 defendant be eligible for commitment to the California
32 Rehabilitation Center as provided in Article 2 (commencing with
33 Section 3050) of Chapter 1 of Division 3 of the Welfare and
34 Institutions Code.

35 (5) The total amount of credits awarded pursuant to Article 2.5
36 (commencing with Section 2930) of Chapter 7 of Title 1 of Part
37 3 shall not exceed one-fifth of the total term of imprisonment
38 imposed and shall not accrue until the defendant is physically
39 placed in the state prison.

1 (6) If there is a current conviction for more than one felony
2 count not committed on the same occasion, and not arising from
3 the same set of operative facts, the court shall sentence the
4 defendant consecutively on each count pursuant to this section.

5 (7) If there is a current conviction for more than one serious or
6 violent felony as described in subdivision (b), the court shall
7 impose the sentence for each conviction consecutive to the sentence
8 for any other conviction for which the defendant may be
9 consecutively sentenced in the manner prescribed by law.

10 (b) Notwithstanding any other law and for the purposes of this
11 section, a prior serious or violent conviction of a felony is defined
12 as:

13 (1) Any offense defined in subdivision (c) of Section 667.5 as
14 a violent felony or any offense defined in subdivision (c) of Section
15 1192.7 as a serious felony in this state. The determination of
16 whether a prior conviction is a prior serious ~~and/or~~ or violent felony
17 conviction for purposes of this section shall be made upon the date
18 of that prior conviction and is not affected by the sentence imposed
19 unless the sentence automatically, upon the initial sentencing,
20 converts the felony to a misdemeanor. The following dispositions
21 shall not affect the determination that a prior serious or violent
22 conviction is a serious or violent felony for purposes of this section:

23 (A) The suspension of imposition of judgment or sentence.

24 (B) The stay of execution of sentence.

25 (C) The commitment to the State Department of ~~Health Services~~
26 *State Hospitals* as a mentally disordered sex offender following a
27 conviction of a felony.

28 (D) The commitment to the California Rehabilitation Center or
29 any other facility whose function is rehabilitative diversion from
30 the state prison.

31 (2) A prior conviction in another jurisdiction for an offense that,
32 if committed in California, is punishable by imprisonment in the
33 state prison constitutes a prior conviction of a particular serious
34 or violent felony if the prior conviction in the other jurisdiction is
35 for an offense that includes all of the elements of the particular
36 violent felony as defined in subdivision (c) of Section 667.5 or
37 serious felony as defined in subdivision (c) of Section 1192.7.

38 (3) A prior juvenile adjudication constitutes a prior serious or
39 violent felony conviction for the purposes of sentence enhancement
40 ~~if~~: *if it meets all of the following criteria:*

1 (A) The juvenile was 16 years of age or older at the time the
2 juvenile committed the prior ~~offense, and~~ *offense*.

3 (B) The prior offense is *either of the following*:

4 (i) ~~listed~~ *Listed* in subdivision (b) of Section 707 of the Welfare
5 and Institutions ~~Code, or~~ *Code*.

6 (ii) ~~listed~~ *Listed* in this subdivision as a serious or violent ~~felony,~~
7 ~~and~~ *felony*.

8 (C) The juvenile was found to be a fit and proper subject to be
9 dealt with under the juvenile court ~~law, and~~ *law*.

10 (D) The juvenile was adjudged a ward of the juvenile court
11 within the meaning of Section 602 of the Welfare and Institutions
12 Code because the person committed an offense listed in subdivision
13 (b) of Section 707 of the Welfare and Institutions Code.

14 (c) For purposes of this section, and in addition to any other
15 enhancements or punishment provisions ~~which~~ *that* may apply,
16 the following apply if a defendant has one or more prior serious
17 or violent felony convictions:

18 (1) If a defendant has one prior serious or violent felony
19 conviction as defined in subdivision (b) that has been pled and
20 proved, the determinate term or minimum term for an indeterminate
21 term shall be twice the term otherwise provided as punishment for
22 the current felony conviction.

23 (2) (A) Except as provided in subparagraph (C), if a defendant
24 has two or more prior serious or violent felony convictions, as
25 defined in subdivision (b), that have been pled and proved, the
26 term for the current felony conviction shall be an indeterminate
27 term of life imprisonment with a minimum term of the
28 indeterminate sentence calculated as the greatest ~~of:~~ *of any of the*
29 *following*:

30 (i) ~~three~~ *Three* times the term otherwise provided as punishment
31 for each current felony conviction subsequent to the two or more
32 prior serious or violent felony ~~convictions, or~~ *convictions*.

33 (ii) ~~twenty-five years or~~ *Twenty-five years*.

34 (iii) ~~the~~ *The* term determined by the court pursuant to Section
35 1170 for the underlying conviction, including any enhancement
36 applicable under Chapter 4.5 (commencing with Section 1170) of
37 Title 7 of Part 2, or any period prescribed by Section 190 or 3046.

38 (B) The indeterminate term described in subparagraph (A) ~~of~~
39 ~~paragraph (2) of this subdivision~~ shall be served consecutive to
40 any other term of imprisonment for which a consecutive term may

1 be imposed by law. Any other term imposed subsequent to ~~any an~~
2 indeterminate term described in subparagraph (A) ~~of paragraph~~
3 ~~(2) of this subdivision~~ shall not be merged therein but shall
4 commence at the time the person would otherwise have been
5 released from prison.

6 (C) If a defendant has two or more prior serious or violent felony
7 convictions as defined in subdivision (c) of Section 667.5 or
8 subdivision (c) of Section 1192.7 that have been pled and proved,
9 and the current offense is not a felony described in paragraph (1)
10 of subdivision ~~(b) of this section~~, (b), the defendant shall be
11 sentenced pursuant to paragraph (1) of subdivision ~~(e) of this~~
12 ~~section~~, (c), unless the prosecution pleads and proves any of the
13 following:

14 (i) The current offense is a controlled substance charge, in which
15 an allegation under Section 11370.4 or 11379.8 of the Health and
16 Safety Code was admitted or found true.

17 (ii) The current offense is a felony sex offense, defined in
18 subdivision (d) of Section ~~261.5~~ 261.5, or ~~Section 262~~, or any
19 felony offense that results in mandatory registration as a sex
20 offender pursuant to subdivision (c) of Section 290 except for
21 violations of Sections 266 and 285, paragraph (1) of subdivision
22 (b) and subdivision (e) of Section 286, paragraph (1) of subdivision
23 (b) and subdivision (e) of Section 287, Section 314, and Section
24 311.11.

25 (iii) During the commission of the current offense, the defendant
26 used a firearm, was armed with a firearm or deadly weapon, or
27 intended to cause great bodily injury to another person.

28 (iv) The defendant suffered a prior conviction, as defined in
29 subdivision ~~(b) of this section~~, (b), for any of the following serious
30 or violent felonies:

31 (I) A “sexually violent offense” as defined by subdivision (b)
32 of Section 6600 of the Welfare and Institutions Code.

33 (II) Oral copulation with a child who is under 14 years of age,
34 and ~~who is~~ more than 10 years younger than the defendant as
35 defined by Section 287 or former Section 288a, sodomy with
36 another person who is under 14 years of age and more than 10
37 years younger than the defendant as defined by Section ~~286~~ 286,
38 or sexual penetration with another person who is under 14 years
39 of ~~age~~, age and ~~who is~~ more than 10 years younger than the
40 defendant, *defendant* as defined by Section 289.

1 (III) A lewd or lascivious act involving a child under 14 years
2 of age, in violation of Section 288.

3 (IV) Any homicide offense, including any attempted homicide
4 offense, defined in Sections 187 to 191.5, inclusive.

5 (V) Solicitation to commit murder as defined in Section 653f.

6 (VI) Assault with a machinegun on a peace officer or firefighter,
7 as defined in paragraph (3) of subdivision (d) of Section 245.

8 (VII) Possession of a weapon of mass destruction, as defined
9 in paragraph (1) of subdivision (a) of Section 11418.

10 (VIII) Any serious or violent felony offense punishable in
11 California by life imprisonment or death.

12 (d) (1) Notwithstanding any other law, this section shall be
13 applied in every case in which a defendant has one or more prior
14 serious ~~and/or~~ or violent felony convictions as defined in this
15 section. The prosecuting attorney shall plead and prove each prior
16 serious or violent felony conviction except as provided in paragraph
17 (2).

18 (2) The prosecuting attorney may move to dismiss or strike a
19 prior serious or violent felony conviction allegation in the
20 furtherance of justice pursuant to Section 1385, or if there is
21 insufficient evidence to prove the prior serious or violent
22 conviction. If upon the satisfaction of the court that there is
23 insufficient evidence to prove the prior serious or violent felony
24 conviction, the court may dismiss or strike the allegation. This
25 section ~~shall~~ *does* not ~~be read to~~ alter a court's authority under
26 Section 1385.

27 (e) Prior serious or violent felony convictions shall not be used
28 in plea bargaining, as defined in subdivision (b) of Section 1192.7.
29 The prosecution shall plead and prove all known prior serious or
30 violent felony convictions and shall not enter into any agreement
31 to strike or seek the dismissal of any prior serious or violent felony
32 conviction allegation except as provided in paragraph (2) of
33 subdivision (d).

34 (f) If any provision of subdivisions (a) to (e), inclusive, or of
35 Section 1170.126, or the application thereof to any person or
36 circumstance is held invalid, that invalidity does not affect other
37 provisions or applications of those subdivisions ~~which~~ *that* can be
38 given effect without the invalid provision or application, and to
39 this end the provisions of those subdivisions are severable.

1 (g) The provisions of this section shall not be amended by the
2 Legislature except by statute passed in each house by rollcall vote
3 entered in the journal, two-thirds of the membership concurring,
4 or by a statute that becomes effective only when approved by the
5 electors.

6 *SEC. 43. Section 1192.5 of the Penal Code is amended to read:*

7 1192.5. (a) Upon a plea of guilty or nolo contendere to an
8 accusatory pleading charging a felony, other than a violation of
9 paragraph (2), (3), or (6) of subdivision (a) of Section 261,
10 ~~paragraph (1) or (4) of subdivision (a) of Section 262, Section~~
11 264.1, Section 286 or 287 or former Section 288a by force,
12 violence, duress, ~~menace~~ *menace*, or threat of great bodily harm,
13 subdivision (b) of Section 288, or subdivision (a) of Section 289,
14 the plea may specify the punishment to the same extent as it may
15 be specified by the jury on a plea of not guilty or fixed by the court
16 on a plea of guilty, nolo contendere, or not guilty, and may specify
17 the exercise by the court thereafter of other powers legally available
18 to it.

19 ~~Where~~

20 (b) *When* the plea is accepted by the prosecuting attorney in
21 open court and is approved by the court, the defendant, except as
22 otherwise provided in this section, cannot be sentenced on the plea
23 to a punishment more severe than that specified in the plea and
24 the court may not proceed as to the plea other than as specified in
25 the plea.

26 (c) If the court approves of the plea, it shall inform the
27 defendant prior to the making of the plea that (1) its approval is
28 not binding, (2) it may, at the time set for the hearing on the
29 application for probation or pronouncement of judgment, withdraw
30 its approval in the light of further consideration of the matter, and
31 (3) in that case, the defendant shall be permitted to withdraw ~~his~~
32 ~~or her~~ *the* plea if ~~he or she~~ *the defendant* desires to do so. The court
33 shall also cause an inquiry to be made of the defendant to satisfy
34 itself that the plea is freely and voluntarily made, and that there is
35 a factual basis for the plea.

36 (d) If the plea is not accepted by the prosecuting attorney and
37 approved by the court, the plea shall be deemed withdrawn and
38 the defendant may then enter the plea or pleas as would otherwise
39 have been available.

1 (e) If the plea is withdrawn or deemed withdrawn, it may not
2 be received in evidence in any criminal, civil, or special action or
3 proceeding of any nature, including proceedings before agencies,
4 commissions, boards, and tribunals.

5 *SEC. 44. Section 1202.1 of the Penal Code is amended to read:*

6 1202.1. (a) Notwithstanding Sections 120975 and 120990 of
7 the Health and Safety Code, the court shall order every person
8 who is convicted of, or adjudged by the court to be a person
9 described by Section 601 or 602 of the Welfare and Institutions
10 Code as provided in Section 725 of the Welfare and Institutions
11 Code by reason of a violation of, a sexual offense listed in
12 subdivision (e), whether or not a sentence or fine is imposed or
13 probation is granted, to submit to a blood or oral mucosal
14 transudate saliva test for evidence of antibodies to the probable
15 causative agent of acquired immunodeficiency syndrome (AIDS)
16 within 180 days of the date of conviction. Each person tested under
17 this section shall be informed of the results of the blood or oral
18 mucosal transudate saliva test.

19 (b) Notwithstanding Section 120980 of the Health and Safety
20 Code, the results of the blood or oral mucosal transudate saliva
21 test to detect antibodies to the probable causative agent of AIDS
22 shall be transmitted by the clerk of the court to the Department of
23 Justice and the local health officer.

24 (c) Notwithstanding Section 120980 of the Health and Safety
25 Code, the Department of Justice shall provide the results of a test
26 or tests as to persons under investigation or being prosecuted under
27 Section 12022.85, if the results are on file with the department, to
28 the defense attorney upon request and the results also shall be
29 available to the prosecuting attorney upon request for the purpose
30 of either preparing counts for a sentence enhancement under
31 Section 12022.85 or complying with subdivision (d).

32 (d) (1) ~~In every case in which~~ *When* a person is convicted of a
33 sexual offense listed in subdivision (e) or adjudged by the court
34 to be a person described by Section 601 or 602 of the Welfare and
35 Institutions Code as provided in Section 725 of the Welfare and
36 Institutions Code by reason of the commission of a sexual offense
37 listed in subdivision (e), the prosecutor or the prosecutor's
38 victim-witness assistance bureau shall advise the victim of ~~his or~~
39 ~~her~~ *the* right to receive the results of the blood or oral mucosal
40 transudate saliva test performed pursuant to subdivision (a). The

1 prosecutor or the prosecutor’s victim-witness assistance bureau
2 shall refer the victim to the local health officer for counseling to
3 assist ~~him or her~~ *the victim* in understanding the extent to which
4 the particular circumstances of the crime may or may not have
5 placed the victim at risk of transmission of the human
6 immunodeficiency virus (HIV) from the accused, to ensure that
7 the victim understands the limitations and benefits of current tests
8 for HIV, and to assist the victim in determining whether ~~he or she~~
9 *the victim* should make the request.

10 (2) Notwithstanding any other law, upon the victim’s request,
11 the local health officer shall be responsible for disclosing test
12 results to the victim who requested the test and the person who
13 was tested. However, as specified in subdivision (g), positive test
14 results shall not be disclosed to the victim or the person who was
15 tested without offering or providing professional counseling
16 appropriate to the circumstances as follows:

17 (A) To help the victim understand the extent to which the
18 particular circumstances of the crime may or may not have put the
19 victim at risk of transmission of HIV from the perpetrator.

20 (B) To ensure that the victim understands both the benefits and
21 limitations of the current tests for HIV.

22 (C) To obtain referrals to appropriate health care and support
23 services.

24 (e) For purposes of this section, “sexual offense” includes any
25 of the following:

26 (1) Rape in violation of Section ~~261~~ 261, 261.4, or ~~264.1~~. *former*
27 *Section 262.*

28 (2) Unlawful intercourse with a person under 18 years of age
29 in violation of Section 261.5 or 266c.

30 ~~(3) Rape of a spouse in violation of Section 262 or 264.1.~~

31 ~~(4)~~

32 (3) Sodomy in violation of Section 266c or 286.

33 ~~(5)~~

34 (4) Oral copulation in violation of Section 266c or 287, or former
35 Section 288a.

36 ~~(6)~~

37 (5) (A) Any of the following offenses if the court finds that
38 there is probable cause to believe that blood, semen, or any other
39 bodily fluid capable of transmitting HIV has been transferred from
40 the defendant to the victim:

- 1 (i) Sexual penetration in violation of Section 264.1, 266c, or
 2 289.
- 3 (ii) Aggravated sexual assault of a child in violation of Section
 4 269.
- 5 (iii) Lewd or lascivious conduct with a child in violation of
 6 Section 288.
- 7 (iv) Continuous sexual abuse of a child in violation of Section
 8 288.5.
- 9 (v) The attempt to commit any offense described in clauses (i)
 10 to (iv), inclusive.
- 11 (B) For purposes of this paragraph, the court shall note its
 12 finding on the court docket and minute order if one is prepared.
- 13 (f) Any blood or oral mucosal transudate saliva tested pursuant
 14 to subdivision (a) shall be subjected to appropriate confirmatory
 15 tests to ensure accuracy of the first test results, and under no
 16 circumstances shall test results be transmitted to the victim or the
 17 person who is tested unless any initially reactive test result has
 18 been confirmed by appropriate confirmatory tests for positive
 19 reactors.
- 20 (g) The local health officer shall be responsible for disclosing
 21 test results to the victim who requested the test and the person who
 22 was tested. However, positive test results shall not be disclosed to
 23 the victim or the person who was tested without offering or
 24 providing professional counseling appropriate to the circumstances.
- 25 (h) The local health officer and the victim shall comply with all
 26 laws and policies relating to medical confidentiality, subject to the
 27 disclosure authorized by subdivisions (g) and (i).
- 28 (i) ~~Any~~A victim who receives information from the local health
 29 officer pursuant to subdivision (g) may disclose the information
 30 as ~~he or she~~ *the victim* deems necessary to protect ~~his or her~~ *the*
 31 *victim's* health and safety or the health and safety of ~~his or her~~ *the*
 32 *victim's* family or sexual partner.
- 33 (j) ~~Any~~A person who transmits test results or discloses
 34 information pursuant to this section shall be immune from civil
 35 liability for any action taken in compliance with this section.
- 36 *SEC. 45. Section 1203.055 of the Penal Code is amended to*
 37 *read:*
- 38 1203.055. (a) (1) Notwithstanding any other law, in sentencing
 39 a person convicted of committing or of attempting to commit one
 40 or more of the offenses listed in subdivision (b) against a person

1 who is a passenger, operator, driver, or other occupant of any
2 public transit vehicle whether the offense or attempt is committed
3 within the vehicle or directed at the vehicle, the court shall require
4 that the person serve some period of confinement. If probation is
5 granted, it shall be a condition of probation that the person shall
6 be confined in the county jail for some period of time. If the time
7 spent in jail prior to arraignment is less than 24 hours, it shall not
8 be considered to satisfy the requirement that some period of
9 confinement be imposed.

10 (2) As used in this subdivision, “public transit vehicle” means
11 ~~any~~ a motor vehicle, streetcar, trackless trolley, bus, shuttle, light
12 rail system, rapid transit system, subway, train, taxi cab, or ~~jitney,~~
13 ~~which jitney that~~ transports members of the public for hire.

14 (b) Subdivision (a) applies to the following crimes:

15 (1) Murder.

16 (2) A violation of Section 241, 241.3, 241.4, 244, 245, 245.2,
17 or 246.

18 (3) Robbery, in violation of Section 211.

19 (4) Kidnapping, in violation of Section 207.

20 (5) Kidnapping, in violation of Section 209.

21 (6) Battery, in violation of Section 243, 243.1, or 243.3.

22 (7) Rape, in violation of Section 261, ~~262,~~ 264, or 264.1.

23 (8) Assault with intent to commit rape or sodomy, in violation
24 of Section 220.

25 (9) Any other offense in which the defendant inflicts great bodily
26 injury on ~~any~~ a person other than an accomplice. As used in this
27 paragraph, “great bodily injury” ~~means “great bodily injury”~~ *has*
28 *the same meaning* as defined in Section 12022.7.

29 (10) Grand theft, in violation of subdivision (1) of Section 487.

30 (11) Throwing of a hard substance or shooting a missile at a
31 transit vehicle, in violation of Section 219.2.

32 (12) Unlawfully causing a fire, in violation of Section 452.

33 (13) Drawing, exhibiting, or using a firearm or deadly weapon,
34 in violation of Section 417.

35 (14) A violation of Section 214.

36 (15) A violation of Section 215.

37 (16) Kidnapping, in violation of Section 209.5.

38 (c) Probation shall not be granted to, nor shall the execution or
39 imposition of sentence be suspended for, ~~any~~ a person convicted

1 of a felony offense falling within this section if the person has been
 2 previously convicted and sentenced pursuant to this section.

3 (d) (1) The existence of any fact ~~which~~ *that* would make a
 4 person ineligible for probation under subdivisions (a) and (c) shall
 5 be alleged in the accusatory pleading, and either admitted by the
 6 defendant in open court, or found to be true by the jury trying the
 7 issue of guilt or by the court where guilt is established by a plea
 8 of guilty or nolo contendere or by a trial by the court sitting without
 9 a jury.

10 A finding bringing the defendant within this section shall not be
 11 stricken pursuant to Section 1385 or any ~~provision~~ of law.

12 (2) This subdivision does not prohibit the adjournment of
 13 criminal proceedings pursuant to Division 3 (commencing with
 14 Section 3000) or Division 6 (commencing with Section 6000) of
 15 the Welfare and Institutions Code.

16 (e) The court shall require, as a condition of probation for ~~any~~
 17 *a* person convicted of committing a crime ~~which~~ *that* took place
 18 on a public transit vehicle, except ~~in any case in which~~ *when* the
 19 court makes a finding and states on the record clear and compelling
 20 reasons why the condition would be inappropriate, that the person
 21 make restitution to the victim. If restitution is found to be
 22 inappropriate, the court shall require as a condition of probation,
 23 ~~except in any case in which~~ *when* the court makes a finding and
 24 states on the record its reasons that the condition would be
 25 inappropriate, that the defendant perform specified community
 26 service. ~~Nothing in this~~ *This* subdivision ~~shall be construed to~~ *does*
 27 *not* limit the authority of a court to provide additional conditions
 28 of probation.

29 (f) ~~In any case in which~~ *When* a person is convicted of
 30 committing a crime ~~which~~ *that* took place on a public transit
 31 vehicle, the probation officer shall immediately investigate and
 32 report to the court at a specified time whether, as a result of the
 33 crime, property damage or loss or personal injury was caused by
 34 the defendant, the amount of the damage, loss, or injury, and the
 35 feasibility of requiring restitution to be made by the defendant.
 36 When a probation report is required pursuant to Section 1203 the
 37 information required by this subdivision shall be added to that
 38 probation report.

39 *SEC. 46. Section 1203.06 of the Penal Code is amended to*
 40 *read:*

1 1203.06. (a) Notwithstanding any other ~~provision~~ of law,
2 probation shall not be granted to, nor shall the execution or
3 imposition of sentence be suspended for, nor shall a finding
4 bringing the defendant within this section be stricken pursuant to
5 Section 1385 for, any of the following persons:

6 (1) ~~Any~~ A person who personally used a firearm during the
7 commission or attempted commission of any of the following
8 crimes:

9 (A) Murder.

10 (B) Robbery, in violation of Section 211.

11 (C) Kidnapping, in violation of Section 207, 209, or 209.5.

12 (D) Lewd or lascivious act, in violation of Section 288.

13 (E) Burglary of the first degree, as defined in Section 460.

14 (F) Rape, in violation of Section 261, ~~262~~, 264.1, or ~~264.1~~.
15 *former Section 262.*

16 (G) Assault with intent to commit a specified sexual offense,
17 in violation of Section 220.

18 (H) Escape, in violation of Section 4530 or 4532.

19 (I) Carjacking, in violation of Section 215.

20 (J) Aggravated mayhem, in violation of Section 205.

21 (K) Torture, in violation of Section 206.

22 (L) Continuous sexual abuse of a child, in violation of Section
23 288.5.

24 (M) A felony violation of Section 136.1 or 137.

25 (N) Sodomy, in violation of Section 286.

26 (O) Oral copulation, in violation of Section 287 or former
27 Section 288a.

28 (P) Sexual penetration, in violation of Section 289 or 264.1.

29 (Q) Aggravated sexual assault of a child, in violation of Section
30 269.

31 (2) ~~Any~~ A person previously convicted of a felony specified in
32 paragraph (1), or assault with intent to commit murder under former
33 Section 217, who is convicted of a subsequent felony and who was
34 personally armed with a firearm at any time during its commission
35 or attempted commission or was unlawfully armed with a firearm
36 at the time of ~~his or her~~ arrest for the subsequent felony.

37 (3) Aggravated arson, in violation of Section 451.5.

38 (b) ~~(4)~~ The existence of any fact that would make a person
39 ineligible for probation under subdivision (a) shall be alleged in

1 the accusatory pleading, and either admitted by the defendant in
 2 open court, court or found to be true by the trier of fact.

3 (c) For purposes of this section, the following definitions apply:

4 (1) “Armed with a firearm” means to knowingly carry or have
 5 available for use a firearm as a means of offense or defense.

6 (2) ~~As used in subdivision (a), “used~~ “Used a firearm” means
 7 to display a firearm in a menacing manner, to intentionally fire it,
 8 to intentionally strike or hit a human being with it, or to use it in
 9 any manner that qualifies under Section 12022.5.

10 (3) ~~As used in subdivision (a), “armed with a firearm” means~~
 11 ~~to knowingly carry or have available for use a firearm as a means~~
 12 ~~of offense or defense.~~

13 SEC. 47. Section 1203.066 of the Penal Code is amended to
 14 read:

15 1203.066. (a) Notwithstanding Section 1203 or any other law,
 16 probation shall not be granted to, nor shall the execution or
 17 imposition of sentence be suspended for, nor shall a finding
 18 bringing the defendant within the provisions of this section be
 19 stricken pursuant to Section 1385 for, any of the following persons:

20 (1) A person who is convicted of violating Section 288 or 288.5
 21 when the act is committed by the use of force, violence, duress,
 22 menace, or fear of immediate and unlawful bodily injury on the
 23 victim or another person.

24 (2) A person who caused bodily injury on the child victim in
 25 committing a violation of Section 288 or 288.5.

26 (3) A person who is convicted of a violation of Section 288 or
 27 288.5 and who was a stranger to the child victim or befriended the
 28 child victim for the purpose of committing an act in violation of
 29 Section 288 or 288.5, unless the defendant honestly and reasonably
 30 believed the victim was 14 years of age or older.

31 (4) A person who used a weapon during the commission of a
 32 violation of Section 288 or 288.5.

33 (5) A person who is convicted of committing a violation of
 34 Section 288 or 288.5 and who has been previously convicted of a
 35 violation of Section 261, ~~262~~, 264.1, 266, 266c, 267, 285, 286,
 36 287, 288, 288.5, or 289, or former Section 262 or 288a, or of
 37 assaulting another person with intent to commit a crime specified
 38 in this paragraph in violation of Section 220, or who has been
 39 previously convicted in another state of an offense which, if

1 committed or attempted in this state, would constitute an offense
2 enumerated in this paragraph.

3 (6) A person who violated Section 288 or 288.5 while
4 kidnapping the child victim in violation of Section 207, 209, or
5 209.5.

6 (7) A person who is convicted of committing a violation of
7 Section 288 or 288.5 against more than one victim.

8 (8) A person who, in violating Section 288 or 288.5, has
9 substantial sexual conduct with a victim who is under 14 years of
10 age.

11 (9) A person who, in violating Section 288 or 288.5, used
12 obscene matter, as defined in Section 311, or matter, as defined in
13 Section 311, depicting sexual conduct, as defined in Section 311.3.

14 (b) “Substantial sexual conduct” means penetration of the vagina
15 or rectum of either the victim or the offender by the penis of the
16 other or by any foreign object, oral copulation, or masturbation of
17 either the victim or the offender.

18 (c) (1) Except for a violation of subdivision (b) of Section 288,
19 this section shall only apply if the existence of any fact required
20 in subdivision (a) is alleged in the accusatory pleading and is either
21 admitted by the defendant in open court, or found to be true by the
22 trier of fact.

23 (2) For the existence of any fact under paragraph (7) of
24 subdivision (a), the allegation must be made pursuant to this
25 section.

26 (d) (1) If a person is convicted of a violation of Section 288 or
27 288.5, and the factors listed in subdivision (a) are not pled or
28 proven, probation may be granted only if the following terms and
29 conditions are met:

30 (A) If the defendant is a member of the victim’s household, the
31 court finds that probation is in the best interest of the child victim.

32 (B) The court finds that rehabilitation of the defendant is feasible
33 and that the defendant is amenable to undergoing treatment, and
34 the defendant is placed in a recognized treatment program designed
35 to deal with child molestation immediately after the grant of
36 probation or the suspension of execution or imposition of sentence.

37 (C) If the defendant is a member of the victim’s household,
38 probation shall not be granted unless the defendant is removed
39 from the household of the victim until the court determines that
40 the best interests of the victim would be served by ~~his or her~~ *the*

1 *defendant's* return. While removed from the household, the court
 2 shall prohibit contact by the defendant with the victim, with the
 3 exception that the court may permit supervised contact, upon the
 4 request of the director of the court-ordered supervised treatment
 5 program, and with the agreement of the victim and the victim's
 6 parent or legal guardian, other than the defendant.

7 (D) If the defendant is not a member of the victim's household,
 8 the court shall prohibit the defendant from being placed or residing
 9 within one-half mile of the child victim's residence for the duration
 10 of the probation term unless the court, on the record, states its
 11 reasons for finding that this residency restriction would not serve
 12 the best interests of the victim.

13 (E) The court finds that there is no threat of physical harm to
 14 the victim if probation is granted.

15 (2) The court shall state its reasons on the record for whatever
 16 sentence it imposes on the defendant.

17 (3) The court shall order the psychiatrist or psychologist who
 18 is appointed pursuant to Section 288.1 to include a consideration
 19 of the factors specified in subparagraphs (A), (B), and (C) of
 20 paragraph (1) in making ~~his or her~~ *the* report to the court.

21 (4) The court shall order the defendant to comply with all
 22 probation requirements, including the requirements to attend
 23 counseling, keep all program appointments, and pay program fees
 24 based upon ability to pay.

25 (5) ~~No~~A victim shall *not* be compelled to participate in a
 26 program or counseling, and ~~no~~ a program may *not* condition a
 27 defendant's enrollment on participation by the victim.

28 (e) As used in subdivision (d), the following definitions apply:

29 (1) "Contact with the victim" includes all physical contact, being
 30 in the presence of the victim, communicating by any means,
 31 including by a third party acting on behalf of the defendant, or
 32 sending any gifts.

33 (2) "Recognized treatment program" means a program that
 34 consists of the following components:

35 (A) Substantial expertise in the treatment of child sexual abuse.

36 (B) A treatment regimen designed to specifically address the
 37 offense.

38 (C) The ability to serve indigent clients.

39 (D) Adequate reporting requirements to ensure that all persons
 40 who, after being ordered to attend and complete a program, may

1 be identified for either failure to enroll in, or failure to successfully
2 complete, the program, or for the successful completion of the
3 program as ordered. The program shall notify the court and the
4 probation department, in writing, within the period of time and in
5 the manner specified by the court of any person who fails to
6 complete the program. Notification shall be given if the program
7 determines that the defendant is performing unsatisfactorily or if
8 the defendant is not benefiting from the education, treatment, or
9 counseling.

10 *SEC. 48. Section 1203.067 of the Penal Code is amended to*
11 *read:*

12 1203.067. (a) Notwithstanding any other law, before probation
13 may be granted to any person convicted of a felony specified in
14 Section 261, ~~262~~, 264.1, 286, 287, 288, 288.5, or 289, or former
15 Section ~~262~~ or 288a, who is eligible for probation, the court shall
16 do all of the following:

17 (1) Order the defendant evaluated pursuant to Section 1203.03,
18 or similar evaluation by the county probation department.

19 (2) Conduct a hearing at the time of sentencing to determine if
20 probation of the defendant would pose a threat to the victim. The
21 victim shall be notified of the hearing by the prosecuting attorney
22 and given an opportunity to address the court.

23 (3) Order any psychiatrist or psychologist appointed pursuant
24 to Section 288.1 to include a consideration of the threat to the
25 victim and the defendant's potential for positive response to
26 treatment in making ~~his or her~~ *the* report to the court. ~~Nothing in~~
27 ~~this~~ *This section shall be construed to does not* require the court
28 to order an examination of the victim.

29 (b) ~~On or after July 1, 2012, the~~ *The* terms of probation for
30 persons placed on formal probation for an offense that requires
31 registration pursuant to Sections 290 to 290.023, inclusive, shall
32 include all of the following:

33 (1) ~~Persons~~ *A person* placed on formal probation prior to July
34 1, 2012, shall participate in an approved sex offender management
35 program, following the standards developed pursuant to Section
36 9003, for a period of not less than one year or the remaining term
37 of probation if it is less than one year. The length of the period in
38 the program is to be determined by the certified sex offender
39 management professional in consultation with the probation officer
40 and as approved by the court. Participation in this program applies

1 to every person described without regard to when ~~his or her~~ *the*
2 *person's* crime or crimes were committed.

3 (2) ~~Persons~~ *A person* placed on formal probation on or after
4 July 1, 2012, shall successfully complete a sex offender
5 management program, following the standards developed pursuant
6 to Section 9003, as a condition of release from probation. The
7 length of the period in the program shall be not less than one year,
8 up to the entire period of probation, as determined by the certified
9 sex offender management professional in consultation with the
10 probation officer and as approved by the court. Participation in
11 this program applies to each person without regard to when ~~his or~~
12 ~~her~~ *the person's* crime or crimes were committed.

13 (3) Waiver of any privilege against self-incrimination and
14 participation in polygraph examinations, which shall be part of the
15 sex offender management program.

16 (4) Waiver of any psychotherapist-patient privilege to enable
17 communication between the sex offender management professional
18 and supervising probation officer, pursuant to Section 290.09.

19 (c) ~~Any~~ *A* defendant ordered to be placed in an approved sex
20 offender management program pursuant to subdivision (b) shall
21 be responsible for paying the expense of ~~his or her~~ participation
22 in the program as determined by the court. The court shall take
23 into consideration the ability of the defendant to pay, and ~~no~~ *a*
24 defendant shall *not* be denied probation because of ~~his or her~~ *their*
25 inability to pay.

26 *SEC. 49. Section 1203.075 of the Penal Code is amended to*
27 *read:*

28 1203.075. (a) Notwithstanding any other ~~provision~~ of law,
29 probation shall not be granted to, nor shall the execution or
30 imposition of sentence be suspended for, nor shall a finding
31 bringing the defendant within this section be stricken pursuant to
32 Section 1385 for, any person who personally inflicts great bodily
33 injury, as defined in Section 12022.7, on the person of another in
34 the commission or attempted commission of any of the following
35 crimes:

36 (1) Murder.

37 (2) Robbery, in violation of Section 211.

38 (3) Kidnapping, in violation of Section 207, 209, or 209.5.

39 (4) Lewd or lascivious act, in violation of Section 288.

40 (5) Burglary of the first degree, as defined in Section 460.

1 (6) Rape, in violation of Section 261,~~262~~, 264.1, or~~264.1~~.
2 *former Section 262.*

3 (7) Assault with intent to commit a specified sexual offense, in
4 violation of Section 220.

5 (8) Escape, in violation of Section 4530 or 4532.

6 (9) Sexual penetration, in violation of Section 289 or 264.1.

7 (10) Sodomy, in violation of Section 286.

8 (11) Oral copulation, in violation of Section 287 or former
9 Section 288a.

10 (12) Carjacking, in violation of Section 215.

11 (13) Continuous sexual abuse of a child, in violation of Section
12 288.5.

13 (14) Aggravated sexual assault of a child, in violation of Section
14 269.

15 (b) The existence of any fact that would make a person ineligible
16 for probation under subdivision (a) shall be alleged in the
17 accusatory pleading, and either admitted by the defendant in open
18 court, or found to be true by the trier of fact.

19 *SEC. 50. Section 1203.08 of the Penal Code is amended to*
20 *read:*

21 1203.08. (a) Notwithstanding any other law, probation shall
22 not be granted to, nor shall the execution or imposition of sentence
23 be suspended for,~~any~~ *an* adult person convicted of a designated
24 felony who has been previously convicted as an adult under charges
25 separately brought and tried two or more times of any designated
26 felony or in any other place of a public offense which, if committed
27 in this state, would have been punishable as a designated felony,
28 if all the convictions occurred within a 10-year period. The 10-year
29 period shall be calculated exclusive of any period of time during
30 which the person has been confined in a state or federal prison.

31 (b) (1) The existence of any fact~~which~~ *that* would make a
32 person ineligible for probation under subdivision (a) shall be
33 alleged in the information or indictment, and either admitted by
34 the defendant in open court, or found to be true by the jury trying
35 the issue of guilt or by the court where guilt is established by plea
36 of guilty or nolo contendere or by trial by the court sitting without
37 a jury.

38 (2) Except where the existence of the fact was not admitted or
39 found to be true pursuant to paragraph (1), or the court finds that

1 a prior conviction was invalid, the court shall not strike or dismiss
2 any prior convictions alleged in the information or indictment.

3 (3) This subdivision does not prohibit the adjournment of
4 criminal proceedings pursuant to Division 3 (commencing with
5 Section 3000) or Division 6 (commencing with Section 6000) of
6 the Welfare and Institutions Code.

7 (c) As used in this section, “designated felony” means any felony
8 specified in Section 187, 192, 207, 209, 209.5, 211, 215, 217, 245,
9 288, or paragraph (2), (6), or (7) of subdivision (a) of Section 261,
10 paragraph (1), (4), or (5) of subdivision (a) of *former* Section 262,
11 subdivision (a) of Section 460, or when great bodily injury occurs
12 in perpetration of an assault to commit robbery, mayhem, or rape,
13 as defined in Section 220.

14 *SEC. 51. Section 1203.09 of the Penal Code is amended to*
15 *read:*

16 1203.09. (a) Notwithstanding any other law, probation shall
17 not be granted to, nor shall the execution or imposition of sentence
18 be suspended for, ~~any~~ a person who commits or attempts to commit
19 one or more of the crimes listed in subdivision (b) against a person
20 who is 60 years of age or older; or against a person who is blind,
21 a paraplegic, a quadriplegic, or a person confined to a wheelchair
22 and that disability is known or reasonably should be known to the
23 person committing the crime; and who during the course of the
24 offense inflicts great bodily injury upon the person.

25 (b) Subdivision (a) applies to the following crimes:

26 (1) Murder.

27 (2) Robbery, in violation of Section 211.

28 (3) Kidnapping, in violation of Section 207.

29 (4) Kidnapping, in violation of Section 209.

30 (5) Burglary of the first degree, as defined in Section 460.

31 (6) Rape by force or violence, in violation of paragraph (2) or
32 (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of
33 subdivision (a) of *former* Section 262.

34 (7) Assault with intent to commit rape or sodomy, in violation
35 of Section 220.

36 (8) Carjacking, in violation of Section 215.

37 (9) Kidnapping, in violation of Section 209.5.

38 (c) The existence of any fact ~~which~~ *that* would make a person
39 ineligible for probation under either subdivision (a) or (f) shall be
40 alleged in the information or indictment, and either admitted by

1 the defendant in open court, or found to be true by the jury trying
2 the issue of guilt or by the court where guilt is established by plea
3 of guilty or nolo contendere or by trial by the court sitting without
4 a jury.

5 (d) As used in this section “great bodily injury” ~~means “great~~
6 ~~bodily injury”~~ *has the same meaning* as defined in Section 12022.7.

7 (e) This section shall apply in all cases, including those cases
8 where the infliction of great bodily injury is an element of the
9 offense.

10 (f) Except in unusual cases where the interests of justice would
11 best be served if the person is granted probation, probation shall
12 not be granted to, nor shall the execution or imposition of sentence
13 be suspended for, ~~any~~ a person convicted of having committed
14 one or more of the following crimes against a person who is 60
15 years of age or older: assault with a deadly weapon or instrument,
16 battery ~~which that~~ results in physical injury ~~which that~~ requires
17 professional medical treatment, carjacking, robbery, or mayhem.

18 *SEC. 52. Section 1270.1 of the Penal Code is amended to read:*

19 1270.1. (a) Except as provided in subdivision (e), before ~~any~~
20 a person who is arrested for any of the following crimes may be
21 released on bail in an amount that is either more or less than the
22 amount contained in the schedule of bail for the offense, or may
23 be released on ~~his or her~~ *the person’s* own recognizance, a hearing
24 shall be held in open court before the magistrate or judge:

25 (1) A serious felony, as defined in subdivision (c) of Section
26 1192.7, or a violent felony, as defined in subdivision (c) of Section
27 667.5, but not including a violation of subdivision (a) of Section
28 460 (residential burglary).

29 (2) A violation of Section 136.1 where punishment is imposed
30 pursuant to subdivision (c) of Section 136.1, Section ~~262, 273.5,~~
31 273.5 or 422 ~~where~~ *if* the offense is punished as a felony, or Section
32 646.9.

33 (3) A violation of paragraph (1) of subdivision (e) of Section
34 243.

35 (4) A violation of Section 273.6 if the detained person made
36 threats to kill or harm, has engaged in violence against, or has gone
37 to the residence or workplace of, the protected party.

38 (b) The prosecuting attorney and defense attorney shall be given
39 a two-court-day written notice and an opportunity to be heard on
40 the matter. If the detained person does not have counsel, the court

1 shall appoint counsel for purposes of this section only. The hearing
2 required by this section shall be held within the time period
3 prescribed in Section 825.

4 (c) At the hearing, the court shall consider evidence of past court
5 appearances of the detained person, the maximum potential
6 sentence that could be imposed, and the danger that may be posed
7 to other persons if the detained person is released. In making the
8 determination whether to release the detained person on ~~his or her~~
9 *their* own recognizance, the court shall consider the potential
10 danger to other persons, including threats that have been made by
11 the detained person and any past acts of violence. The court shall
12 also consider any evidence offered by the detained person regarding
13 ~~his or her~~ *the detained person's* ties to the community and ~~his or~~
14 ~~her~~ ability to post bond.

15 (d) If the judge or magistrate sets the bail in an amount that is
16 either more or less than the amount contained in the schedule of
17 bail for the offense, the judge or magistrate shall state the reasons
18 for that decision and shall address the issue of threats made against
19 the victim or witness, if they were made, in the record. This
20 statement shall be included in the record.

21 (e) Notwithstanding subdivision (a), a judge or magistrate,
22 pursuant to Section 1269c, may, with respect to aailable felony
23 offense or a misdemeanor offense of violating a domestic violence
24 order, increase bail to an amount exceeding that set forth in the
25 bail schedule without a hearing, provided an oral or written
26 declaration of facts justifying the increase is presented under
27 penalty of perjury by a sworn peace officer.

28 *SEC. 53. Section 1346.1 of the Penal Code is amended to read:*

29 1346.1. (a) When a defendant has been charged with a violation
30 of Section ~~262~~ 261, *if the victim is the spouse of the defendant*, or
31 subdivision (a) of Section 273.5, the people may apply for an order
32 that the victim's testimony at the preliminary hearing, in addition
33 to being stenographically recorded, be video recorded and the
34 video recording preserved.

35 (b) The application for the order shall be in writing and made
36 three days prior to the preliminary hearing.

37 (c) Upon timely receipt of the application, the magistrate shall
38 order that the testimony of the victim given at the preliminary
39 hearing be taken and preserved as a video recording, in addition

1 to being stenographically recorded. The video recording shall be
2 transmitted to the clerk of the court in which the action is pending.

3 (d) If the victim's prior testimony given at the preliminary
4 hearing is admissible pursuant to the Evidence Code, then the
5 video recording of that testimony may be introduced as evidence
6 at trial.

7 *SEC. 54. Section 1387 of the Penal Code is amended to read:*

8 1387. (a) An order terminating an action pursuant to this
9 chapter, or Section 859b, 861, 871, or 995, is a bar to any other
10 prosecution for the same offense if it is a felony or if it is a
11 misdemeanor charged together with a felony and the action has
12 been previously terminated pursuant to this chapter, or Section
13 859b, 861, 871, or 995, or if it is a misdemeanor not charged
14 together with a felony, except in those felony cases, or those cases
15 where a misdemeanor is charged with a felony, where subsequent
16 to the dismissal of the felony or misdemeanor the judge or
17 magistrate finds any of the following:

18 (1) That substantial new evidence has been discovered by the
19 prosecution ~~which~~ *that* would not have been known through the
20 exercise of due diligence at, or prior to, the time of termination of
21 the action.

22 (2) That the termination of the action was the result of the direct
23 intimidation of a material witness, as shown by a preponderance
24 of the evidence.

25 (3) That the termination of the action was the result of the failure
26 to appear by the complaining witness, who had been personally
27 subpoenaed in a prosecution arising under subdivision (e) of
28 Section 243 or ~~Section 262, 273.5, 273.5 or 273.6. 273.6, or Section~~
29 *261, where the complaining witness is the spouse of the defendant.*
30 This paragraph shall apply only within six months of the original
31 dismissal of the action, and may be invoked only once in each
32 action. ~~Nothing in this~~ *This section shall does not* preclude a
33 defendant from being eligible for diversion.

34 (4) That the termination of the action was the result of the
35 complaining witness being found in contempt of court as described
36 in subdivision (b) of Section 1219 of the Code of Civil Procedure.
37 This paragraph shall apply only within six months of the original
38 dismissal of the action, and may be invoked only once in each
39 action.

1 (b) Notwithstanding subdivision (a), an order terminating an
 2 action pursuant to this chapter is not a bar to another prosecution
 3 for the same offense if it is a misdemeanor charging an offense
 4 based on an act of domestic violence, as defined in subdivisions
 5 (a) and (b) of Section 13700, and the termination of the action was
 6 the result of the failure to appear by the complaining witness, who
 7 had been personally subpoenaed. This subdivision shall apply only
 8 within six months of the original dismissal of the action, and may
 9 be invoked only once in each action. ~~Nothing in this~~ *This*
 10 subdivision ~~shall~~ *does not* preclude a defendant from being eligible
 11 for diversion.

12 (c) An order terminating an action is not a bar to prosecution
 13 if a complaint is dismissed before the commencement of a
 14 preliminary hearing in favor of an indictment filed pursuant to
 15 Section 944 and the indictment is based upon the same subject
 16 matter as charged in the dismissed complaint, information, or
 17 indictment.

18 However, if the previous termination was pursuant to Section
 19 859b, 861, 871, or 995, the subsequent order terminating an action
 20 is not a bar to prosecution if:

21 (1) Good cause is shown why the preliminary examination was
 22 not held within 60 days from the date of arraignment or plea.

23 (2) The motion pursuant to Section 995 was granted because of
 24 any of the following reasons:

25 (A) Present insanity of the defendant.

26 (B) A lack of counsel after the defendant elected to ~~represent~~
 27 ~~himself or herself~~ *self-represent* rather than being represented by
 28 appointed counsel.

29 (C) Ineffective assistance of counsel.

30 (D) Conflict of interest of defense counsel.

31 (E) Violation of time deadlines based upon unavailability of
 32 defense counsel.

33 (F) Defendant's motion to withdraw a waiver of the preliminary
 34 examination.

35 (3) The motion pursuant to Section 995 was granted after
 36 dismissal by the magistrate of the action pursuant to Section 871
 37 and was recharged pursuant to Section 739.

38 *SEC. 55. Section 1524.1 of the Penal Code is amended to read:*

39 1524.1. (a) The primary purpose of the testing and disclosure
 40 provided in this section is to benefit the victim of a crime by

1 informing the victim whether the defendant is infected with the
2 HIV virus. It is also the intent of the Legislature in enacting this
3 section to protect the health of both victims of crime and those
4 accused of committing a crime. ~~Nothing in this~~ *This* section ~~shall~~
5 ~~be construed to~~ *does not* authorize mandatory testing or disclosure
6 of test results for the purpose of a charging decision by a
7 prosecutor, ~~nor, and,~~ except as specified in subdivisions (g) and
8 (i), ~~shall this section be construed to~~ *does not* authorize breach of
9 the confidentiality provisions contained in Chapter 7 (commencing
10 with Section 120975) of Part 4 of Division 105 of the Health and
11 Safety Code.

12 (b) (1) Notwithstanding the provisions of Chapter 7
13 (commencing with Section 120975) of Part 4 of Division 105 of
14 the Health and Safety Code, when a defendant has been charged
15 by complaint, information, or indictment with a crime, or a minor
16 is the subject of a petition filed in juvenile court alleging the
17 commission of a crime, the court, at the request of the victim, may
18 issue a search warrant for the purpose of testing the accused's
19 blood or oral mucosal transudate saliva with ~~any~~ *an* HIV test, as
20 defined in Section 120775 of the Health and Safety Code only
21 under the following circumstances: when the court finds, upon the
22 conclusion of the hearing described in paragraph (3), ~~or in those~~
23 ~~eases in which~~ *when* a preliminary hearing is not required to be
24 held, that there is probable cause to believe that the accused
25 committed the offense, and that there is probable cause to believe
26 that blood, semen, or any other bodily fluid identified by the State
27 Department of *Public Health* ~~Services~~ in appropriate regulations
28 as capable of transmitting the human immunodeficiency virus has
29 been transferred from the accused to the victim.

30 (2) Notwithstanding Chapter 7 (commencing with Section
31 120975) of Part 4 of Division 105 of the Health and Safety Code,
32 when a defendant has been charged by complaint, information, or
33 indictment with a crime under Section 220, 261, 261.5, ~~262~~, 264.1,
34 266c, 269, 286, 287, 288, 288.5, 289, or 289.5, or former Section
35 262 *or* 288a, or with an attempt to commit any of the offenses,
36 and is the subject of a police report alleging the commission of a
37 separate, uncharged offense that could be charged under Section
38 220, 261, 261.5, ~~262~~, 264.1, 266c, 269, 286, 287, 288, 288.5, 289,
39 or 289.5, or former Section 262 *or* 288a, or of an attempt to commit
40 any of the offenses, or a minor is the subject of a petition filed in

1 juvenile court alleging the commission of a crime under Section
2 220, 261, 261.5, ~~262~~, 264.1, 266c, 269, 286, 287, 288, 288.5, 289,
3 or 289.5, or former Section 262 *or* 288a, or of an attempt to commit
4 any of the offenses, and is the subject of a police report alleging
5 the commission of a separate, uncharged offense that could be
6 charged under Section 220, 261, 261.5, ~~262~~, 264.1, 266c, 269,
7 286, 287, 288, 288.5, 289, or 289.5, or former Section 262 *or* 288a,
8 or of an attempt to commit any of the offenses, the court, at the
9 request of the victim of the uncharged offense, may issue a search
10 warrant for the purpose of testing the accused's blood or oral
11 mucosal transudate saliva with ~~any~~ *an* HIV test, as defined in
12 Section 120775 of the Health and Safety Code only under the
13 following circumstances: when the court finds that there is probable
14 cause to believe that the accused committed the uncharged offense,
15 and that there is probable cause to believe that blood, semen, or
16 any other bodily fluid identified by the State Department of *Public*
17 Health ~~Services~~ in appropriate regulations as capable of
18 transmitting the human immunodeficiency virus has been
19 transferred from the accused to the victim. As used in this
20 paragraph, "Section 289.5" refers to the statute enacted by Chapter
21 293 of the Statutes of 1991, penetration by an unknown object.

22 (3) (A) Prior to the issuance of a search warrant pursuant to
23 paragraph (1), the court, where applicable and at the conclusion
24 of the preliminary examination if the defendant is ordered to answer
25 pursuant to Section 872, shall conduct a hearing at which both the
26 victim and the defendant have the right to be present. During the
27 hearing, only affidavits, counter affidavits, and medical reports
28 regarding the facts that support or rebut the issuance of a search
29 warrant under paragraph (1) shall be admissible.

30 (B) Prior to the issuance of a search warrant pursuant to
31 paragraph (2), the court, where applicable, shall conduct a hearing
32 at which both the victim and the defendant are present. During the
33 hearing, only affidavits, counter affidavits, and medical reports
34 regarding the facts that support or rebut the issuance of a search
35 warrant under paragraph (2) shall be admissible.

36 (4) A request for a probable cause hearing made by a victim
37 under paragraph (2) shall be made before sentencing in the superior
38 court, or before disposition on a petition in a juvenile court, of the
39 criminal charge or charges filed against the defendant.

1 (c) (1) ~~In all cases in which~~ *When* the person has been charged
2 by complaint, information, or indictment with a crime, or is the
3 subject of a petition filed in a juvenile court alleging the
4 commission of a crime, the prosecutor shall advise the victim of
5 ~~his or her~~ *the* right to make this request. To assist the victim of the
6 crime to determine whether ~~he or she~~ *the victim* should make this
7 request, the prosecutor shall refer the victim to the local health
8 officer for prerequest counseling to help that person understand
9 the extent to which the particular circumstances of the crime may
10 or may not have put the victim at risk of transmission of HIV from
11 the accused, to ensure that the victim understands both the benefits
12 and limitations of the current tests for HIV, to help the victim
13 decide whether ~~he or she~~ *the victim* wants to request that the
14 accused be tested, and to help the victim decide whether ~~he or she~~
15 *the victim* wants to be tested.

16 (2) The Department of Justice, in cooperation with the California
17 District Attorneys Association, shall prepare a form to be used in
18 providing victims with the notice required by paragraph (1).

19 (d) If the victim decides to request HIV testing of the accused,
20 the victim shall request the issuance of a search warrant, as
21 described in subdivision (b).

22 Neither the failure of a prosecutor to refer or advise the victim
23 as provided in this subdivision, nor the failure or refusal by the
24 victim to seek or obtain counseling, shall be considered by the
25 court in ruling on the victim's request.

26 (e) The local health officer shall make provision for
27 administering all HIV tests ordered pursuant to subdivision (b).

28 (f) Any blood or oral mucosal transudate saliva tested pursuant
29 to subdivision (b) shall be subjected to appropriate confirmatory
30 tests to ensure accuracy of the first test results, and under no
31 circumstances shall test results be transmitted to the victim or the
32 accused unless any initially reactive test result has been confirmed
33 by appropriate confirmatory tests for positive reactors.

34 (g) The local health officer shall have the responsibility for
35 disclosing test results to the victim who requested the test and to
36 the accused who was tested. However, ~~no~~ positive test results shall
37 *not* be disclosed to the victim or to the accused without also
38 providing or offering professional counseling appropriate to the
39 circumstances.

1 (h) The local health officer and victim shall comply with all
 2 laws and policies relating to medical confidentiality subject to the
 3 disclosure authorized by subdivisions (g) and (i). ~~Any~~ An individual
 4 who files a false report of sexual assault in order to obtain test
 5 result information pursuant to this section shall, in addition to any
 6 other liability under law, be guilty of a misdemeanor punishable
 7 as provided in subdivision (c) of Section 120980 of the Health and
 8 Safety Code. ~~Any~~ An individual as described in the preceding
 9 sentence who discloses test result information obtained pursuant
 10 to this section shall also be guilty of an additional misdemeanor
 11 punishable as provided for in subdivision (c) of Section 120980
 12 of the Health and Safety Code for each separate disclosure of that
 13 information.

14 (i) ~~Any~~ A victim who receives information from the health
 15 officer pursuant to subdivision (g) may disclose the test results as
 16 the victim deems necessary to protect ~~his or her~~ *their* health and
 17 safety or the health and safety of ~~his or her~~ *the victim's* family or
 18 sexual partner.

19 (j) ~~Any~~ A person transmitting test results or disclosing
 20 information pursuant to this section shall be immune from civil
 21 liability for any actions taken in compliance with this section.

22 (k) The results of any blood or oral mucosal transudate saliva
 23 tested pursuant to subdivision (b) shall not be used in any criminal
 24 proceeding as evidence of either guilt or innocence.

25 *SEC. 56. Section 1601 of the Penal Code is amended to read:*

26 1601. (a) ~~In the case of any~~ *When a person charged with and*
 27 *found incompetent on a charge of, convicted of, or found not guilty*
 28 *by reason of insanity of murder, mayhem, aggravated mayhem, a*
 29 *violation of Section 207, 209, or 209.5 in which the victim suffers*
 30 *intentionally inflicted great bodily injury, robbery or carjacking*
 31 *with a deadly or dangerous weapon or in which the victim suffers*
 32 *great bodily injury, a violation of subdivision (a) or (b) of Section*
 33 *451, a violation of paragraph (2), (3), or (6) of subdivision (a) of*
 34 *Section 261, a violation of paragraph (1) or (4) of subdivision (a)*
 35 *of former Section 262, a violation of Section 459 in the first degree,*
 36 *a violation of Section 220 in which the victim suffers great bodily*
 37 *injury, a violation of Section 288, a violation of Section 18715,*
 38 *18725, 18740, 18745, 18750, or 18755, or any felony involving*
 39 *death, great bodily injury, or an act which poses a serious threat*
 40 *of bodily harm to another person, outpatient status under this title*

1 shall not be available until that person has actually been confined
 2 in a state hospital or other treatment facility for 180 days or more
 3 after having been committed under the provisions of law specified
 4 in Section 1600, unless the court finds a suitable placement,
 5 including, but not limited to, an outpatient placement program,
 6 that would provide the person with more appropriate mental health
 7 treatment and the court finds that the placement would not pose a
 8 danger to the health or safety of others, including, but not limited
 9 to, the safety of the victim and the victim’s family.

10 (b) ~~In the case of any~~ *When a person charged with, and found*
 11 *incompetent on a charge of, or convicted of, any misdemeanor or*
 12 *any felony other than those described in subdivision (a), or found*
 13 *not guilty of any misdemeanor by reason of insanity, outpatient*
 14 *status under this title may be granted by the court prior to actual*
 15 *confinement in a state hospital or other treatment facility under*
 16 *the provisions of law specified in Section 1600.*

17 *SEC. 57. Section 2933.5 of the Penal Code is amended to read:*

18 2933.5. (a) (1) Notwithstanding any other law, ~~every~~ *a person*
 19 *who is convicted of any felony offense listed in paragraph (2), and*
 20 *who previously has been convicted two or more times, on charges*
 21 *separately brought and tried, and who previously has served two*
 22 *or more separate prior prison terms, as defined in subdivision (g)*
 23 *of Section 667.5, of any offense or offenses listed in paragraph*
 24 *(2), shall be ineligible to earn credit on ~~his or her~~ the person’s term*
 25 *of imprisonment pursuant to this article.*

26 (2) As used in this subdivision, “felony offense” includes any
 27 of the following:

- 28 (A) Murder, as defined in Sections 187 and 189.
- 29 (B) Voluntary manslaughter, as defined in subdivision (a) of
- 30 Section 192.
- 31 (C) Mayhem as defined in Section 203.
- 32 (D) Aggravated mayhem, as defined in Section 205.
- 33 (E) Kidnapping, as defined in Section 207, 209, or 209.5.
- 34 (F) Assault with vitriol, corrosive acid, or caustic chemical of
- 35 any nature, as described in Section 244.
- 36 (G) Rape, as defined in paragraph (2) or (6) of subdivision (a)
- 37 of Section 261 or paragraph (1) or (4) of subdivision (a) of *former*
- 38 *Section 262.*
- 39 (H) Sodomy by means of force, violence, duress, ~~menace~~
- 40 *menace*, or fear of immediate and unlawful bodily injury on the

1 victim or another person, as described in subdivision (c) of Section
2 286.

3 (I) Sodomy while voluntarily acting in concert, as described in
4 subdivision (d) of Section 286.

5 (J) Lewd or lascivious acts on a child ~~under the age of 14 years,~~
6 *14 years of age*, as described in subdivision (b) of Section 288.

7 (K) Oral copulation by means of force, violence, duress, menace,
8 or fear of immediate and unlawful bodily injury on the victim or
9 another person, as described in subdivision (c) of Section 287 or
10 of former Section 288a.

11 (L) Continuous sexual abuse of a child, as described in Section
12 288.5.

13 (M) Sexual penetration, as described in subdivision (a) of
14 Section 289.

15 (N) Exploding a destructive device or explosive with intent to
16 injure, as described in Section 18740, with intent to murder, as
17 described in Section 18745, or resulting in great bodily injury or
18 mayhem, as described in Section 18750.

19 (O) Any felony in which the defendant personally inflicted great
20 bodily injury, as provided in Section 12022.53 or 12022.7.

21 (b) A prior conviction of an offense listed in subdivision (a)
22 shall include a conviction in another jurisdiction for an offense
23 ~~which~~ *that* includes all of the elements of the particular felony as
24 defined under California law.

25 (c) This section shall apply whenever the present felony is
26 committed on or after the effective date of this section, regardless
27 of the date of commission of the prior offense or offenses resulting
28 in credit-earning ineligibility.

29 (d) This section shall be in addition to, and shall not preclude
30 the imposition of, any applicable sentence enhancement terms, or
31 probation ineligibility and habitual offender provisions authorized
32 under any other section.

33 *SEC. 58. Section 2962 of the Penal Code is amended to read:*

34 2962. As a condition of parole, a prisoner who meets the
35 following criteria shall be provided necessary treatment by the
36 State Department of State Hospitals as follows:

37 (a) (1) The prisoner has a severe mental health disorder that is
38 not in remission or that cannot be kept in remission without
39 treatment.

1 (2) The term “severe mental health disorder” means an ~~illness~~
2 *illness, disease, or disease* or condition that substantially impairs
3 the person’s thought, perception of reality, emotional process, or
4 judgment; or that grossly impairs behavior; or that demonstrates
5 evidence of an acute brain syndrome for which prompt remission,
6 in the absence of treatment, is unlikely. The term “severe mental
7 health disorder,” as used in this section, does not include a
8 personality or adjustment disorder, epilepsy, intellectual disability
9 or other developmental disabilities, or addiction to or abuse of
10 intoxicating substances.

11 (3) The term “remission” means a finding that the overt signs
12 and symptoms of the severe mental health disorder are controlled
13 either by psychotropic medication or psychosocial support. A
14 person “cannot be kept in remission without treatment” if during
15 the year prior to the question being before the Board of Parole
16 Hearings or a trial court, the person has been in remission and has
17 been physically violent, except in self-defense, or has made a
18 serious threat of substantial physical harm upon the person of
19 another so as to cause the target of the threat to reasonably fear
20 for their safety or the safety of their immediate family, or the
21 person has intentionally caused property damage, or has not
22 voluntarily followed the treatment plan. In determining if a person
23 has voluntarily followed the treatment plan, the standard is whether
24 the person has acted as a reasonable person would in following
25 the treatment plan.

26 (b) The severe mental health disorder was one of the causes of,
27 or was an aggravating factor in, the commission of a crime for
28 which the prisoner was sentenced to prison.

29 (c) The prisoner has been in treatment for the severe mental
30 health disorder for 90 days or more within the year prior to the
31 prisoner’s parole or release.

32 (d) (1) Prior to release on parole, the person in charge of treating
33 the prisoner and a practicing psychiatrist or psychologist from the
34 State Department of State Hospitals have evaluated the prisoner
35 at a facility of the Department of Corrections and Rehabilitation,
36 and a chief psychiatrist of the Department of Corrections and
37 Rehabilitation has certified to the Board of Parole Hearings that
38 the prisoner has a severe mental health disorder, that the disorder
39 is not in ~~remission~~, *remission* or cannot be kept in remission
40 without treatment, that the severe mental health disorder was one

1 of the causes or was an aggravating factor in the prisoner's criminal
2 behavior, that the prisoner has been in treatment for the severe
3 mental health disorder for 90 days or more within the year prior
4 to the prisoner's parole release day, and that by reason of the
5 prisoner's severe mental health—~~disorder~~ *disorder*, the prisoner
6 represents a substantial danger of physical harm to others.

7 (A) For prisoners being treated by the State Department of State
8 Hospitals pursuant to Section 2684, the certification shall be by a
9 chief psychiatrist of the Department of Corrections and
10 Rehabilitation, and the evaluation shall be conducted at a state
11 hospital by the person at the state hospital in charge of treating the
12 prisoner and a practicing psychiatrist or psychologist from the
13 Department of Corrections and Rehabilitation.

14 (B) For the evaluation of Department of Corrections and
15 Rehabilitation prisoners who are temporarily housed at a county
16 correctional facility, a county medical facility, or a state-assigned
17 mental health provider, a practicing psychiatrist or psychologist
18 from the State Department of State Hospitals, the Department of
19 Corrections and Rehabilitation, or the Board of Parole Hearings
20 shall be afforded prompt and unimpeded access to the prisoner
21 and their records for the period of confinement at that facility upon
22 submission of current and valid proof of state employment and a
23 departmental letter or memorandum arranging the appointment.

24 (2) If the professionals doing the evaluation pursuant to
25 paragraph (1) do not concur that (A) the prisoner has a severe
26 mental health disorder, (B) that the disorder is not in remission or
27 cannot be kept in remission without treatment, or (C) that the severe
28 mental health disorder was a cause of, or aggravated, the prisoner's
29 criminal behavior, and a chief psychiatrist has certified the prisoner
30 to the Board of Parole Hearings pursuant to this paragraph, the
31 Board of Parole Hearings shall order a further examination by two
32 independent professionals, as provided for in Section 2978.

33 (3) If at least one of the independent professionals who evaluate
34 the prisoner pursuant to paragraph (2) concurs with the chief
35 psychiatrist's certification of the issues described in paragraph (2),
36 this subdivision shall be applicable to the prisoner. The
37 professionals appointed pursuant to Section 2978 shall inform the
38 prisoner that the purpose of their examination is not treatment, but
39 to determine if the prisoner meets certain criteria to be involuntarily

1 treated as an offender with a mental health disorder. It is not
2 required that the prisoner appreciate or understand that information.

3 (e) The crime referred to in subdivision (b) meets both of the
4 following criteria:

5 (1) The defendant received a determinate sentence pursuant to
6 Section 1170 for the crime.

7 (2) The crime is one of the following:

8 (A) Voluntary manslaughter.

9 (B) Mayhem.

10 (C) Kidnapping in violation of Section 207.

11 (D) A robbery wherein it was charged and proved that the
12 defendant personally used a deadly or dangerous weapon, as
13 provided in subdivision (b) of Section 12022, in the commission
14 of that robbery.

15 (E) Carjacking, as defined in subdivision (a) of Section 215, if
16 it is charged and proved that the defendant personally used a deadly
17 or dangerous weapon, as provided in subdivision (b) of Section
18 12022, in the commission of the carjacking.

19 (F) Rape, as defined in paragraph (2) or (6) of subdivision (a)
20 of Section 261 or paragraph (1) or (4) of subdivision (a) of *former*
21 Section 262.

22 (G) Sodomy by force, violence, duress, menace, or fear of
23 immediate and unlawful bodily injury on the victim or another
24 person.

25 (H) Oral copulation by force, violence, duress, menace, or fear
26 of immediate and unlawful bodily injury on the victim or another
27 person.

28 (I) Lewd acts on a child under 14 years of age in violation of
29 Section 288.

30 (J) Continuous sexual abuse in violation of Section 288.5.

31 (K) The offense described in subdivision (a) of Section 289 if
32 the act was accomplished against the victim's will by force,
33 violence, duress, menace, or fear of immediate and unlawful bodily
34 injury on the victim or another person.

35 (L) Arson in violation of subdivision (a) of Section 451, or arson
36 in violation of any other provision of Section 451 or in violation
37 of Section 455 if the act posed a substantial danger of physical
38 harm to others.

1 (M) A felony in which the defendant used a firearm which use
2 was charged and proved as provided in Section 12022.5, 12022.53,
3 or 12022.55.

4 (N) A violation of Section 18745.

5 (O) Attempted murder.

6 (P) A crime not enumerated in subparagraphs (A) to (O),
7 inclusive, in which the prisoner used force or violence, or caused
8 serious bodily injury as defined in paragraph (4) of subdivision (f)
9 of Section 243.

10 (Q) A crime in which the perpetrator expressly or impliedly
11 threatened another with the use of force or violence likely to
12 produce substantial physical harm in a manner that a reasonable
13 person would believe and expect that the force or violence would
14 be used. For purposes of this subparagraph, substantial physical
15 harm does not require proof that the threatened act was likely to
16 cause great or serious bodily injury.

17 (f) For purposes of meeting the criteria set forth in this section,
18 the existence or nature of the crime, as defined in paragraph (2)
19 of subdivision (e), for which the prisoner has been convicted may
20 be shown with documentary evidence. The details underlying the
21 commission of the offense that led to the conviction, including the
22 use of force or violence, causing serious bodily injury, or the threat
23 to use force or violence likely to produce substantial physical harm,
24 may be shown by documentary evidence, including, but not limited
25 to, preliminary hearing transcripts, trial transcripts, probation and
26 sentencing reports, and evaluations by the State Department of
27 State Hospitals.

28 (g) As used in this chapter, “substantial danger of physical harm”
29 does not require proof of a recent overt act.

30 *SEC. 59. Section 3000 of the Penal Code is amended to read:*

31 3000. (a) (1) The Legislature finds and declares that the period
32 immediately following incarceration is critical to successful
33 reintegration of the offender into society and to positive citizenship.
34 It is in the interest of public safety for the state to provide for the
35 effective supervision of and surveillance of parolees, including
36 the judicious use of revocation actions, and to provide educational,
37 vocational, family, and personal counseling necessary to assist
38 parolees in the transition between imprisonment and discharge. A
39 sentence resulting in imprisonment in the state prison pursuant to
40 Section 1168 or 1170 shall include a period of parole supervision

1 or postrelease community supervision, unless waived, or as
2 otherwise provided in this article.

3 (2) The Legislature finds and declares that it is not the intent of
4 this section to diminish resources allocated to the Department of
5 Corrections and Rehabilitation for parole functions for which the
6 department is responsible. It is also not the intent of this section
7 to diminish the resources allocated to the Board of Parole Hearings
8 to execute its duties with respect to parole functions for which the
9 board is responsible.

10 (3) The Legislature finds and declares that diligent effort must
11 be made to ensure that parolees are held accountable for their
12 criminal behavior, including, but not limited to, the satisfaction of
13 restitution fines and orders.

14 (4) For any person subject to a sexually violent predator
15 proceeding pursuant to Article 4 (commencing with Section 6600)
16 of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
17 Code, an order issued by a judge pursuant to Section 6601.5 of the
18 Welfare and Institutions Code, finding that the petition, on its face,
19 supports a finding of probable cause to believe that the individual
20 named in the petition is likely to engage in sexually violent
21 predatory criminal behavior upon ~~his or her~~ release, shall toll the
22 period of parole of that person, from the date that person is released
23 by the Department of Corrections and Rehabilitation as follows:

24 (A) If the person is committed to the State Department of State
25 Hospitals as a sexually violent predator and subsequently a court
26 orders that the person be unconditionally discharged, the parole
27 period shall be tolled until the date the judge enters the order
28 unconditionally discharging that person.

29 (B) If the person is not committed to the State Department of
30 State Hospitals as a sexually violent predator, the tolling of the
31 parole period shall be abrogated and the parole period shall be
32 deemed to have commenced on the date of release from the
33 Department of Corrections and Rehabilitation.

34 (5) Paragraph (4) applies to persons released by the Department
35 of Corrections and Rehabilitation on or after January 1, 2012.
36 Persons released by the Department of Corrections and
37 Rehabilitation prior to January 1, 2012, shall continue to be subject
38 to the law governing the tolling of parole in effect on December
39 31, 2011.

1 (b) Notwithstanding any provision to the contrary in Article 3
2 (commencing with Section 3040) of this chapter, the following
3 shall apply to any inmate subject to Section 3000.08:

4 (1) In the case of ~~any~~ *an* inmate sentenced under Section 1168
5 for a crime committed prior to July 1, 2013, the period of parole
6 shall not exceed five years in the case of an inmate imprisoned for
7 any offense other than first or second degree murder for which the
8 inmate has received a life sentence, and shall not exceed three
9 years in the case of any other inmate, unless in either case the
10 Board of Parole Hearings for good cause waives parole and
11 discharges the inmate from custody of the department. This
12 subdivision shall also be applicable to inmates who committed
13 crimes prior to July 1, 1977, to the extent specified in Section
14 1170.2. In the case of any inmate sentenced under Section 1168
15 for a crime committed on or after July 1, 2013, the period of parole
16 shall not exceed five years in the case of an inmate imprisoned for
17 any offense other than first or second degree murder for which the
18 inmate has received a life sentence, and shall not exceed three
19 years in the case of any other inmate, unless in either case the
20 department for good cause waives parole and discharges the inmate
21 from custody of the department.

22 (2) (A) For a crime committed prior to July 1, 2013, at the
23 expiration of a term of imprisonment of ~~one~~ 1 year and one day,
24 or a term of imprisonment imposed pursuant to Section 1170 or
25 at the expiration of a term reduced pursuant to Section 2931 or
26 2933, if applicable, the inmate shall be released on parole for a
27 period not exceeding ~~three~~ 3 years, except that any inmate
28 sentenced for an offense specified in paragraph (3), (4), (5), (6),
29 (11), or (18) of subdivision (c) of Section 667.5 shall be released
30 on parole for a period not exceeding 10 years, unless a longer
31 period of parole is specified in Section 3000.1.

32 (B) For a crime committed on or after July 1, 2013, at the
33 expiration of a term of imprisonment of ~~one~~ 1 year and one day,
34 or a term of imprisonment imposed pursuant to Section 1170 or
35 at the expiration of a term reduced pursuant to Section 2931 or
36 2933, if applicable, the inmate shall be released on parole for a
37 period of ~~three~~ 3 years, except that any inmate sentenced for an
38 offense specified in paragraph (3), (4), (5), (6), (11), or (18) of
39 subdivision (c) of Section 667.5 shall be released on parole for a

1 period of 10 years, unless a longer period of parole is specified in
2 Section 3000.1.

3 (3) Notwithstanding paragraphs (1) and (2), in the case of any
4 offense for which the inmate has received a life sentence pursuant
5 to subdivision (b) of Section 209, with the intent to commit a
6 specified sex offense, or Section 667.51, 667.61, or 667.71, the
7 period of parole shall be 10 years, unless a longer period of parole
8 is specified in Section 3000.1.

9 (4) (A) Notwithstanding paragraphs (1) to (3), inclusive, in the
10 case of a person convicted of and required to register as a sex
11 offender for the commission of an offense specified in Section
12 261, ~~262~~, 264.1, 286, 287, paragraph (1) of subdivision (b) of
13 Section 288, Section 288.5 or 289, or former Section 262 *or* 288a,
14 in which one or more of the victims of the offense was a child
15 under 14 years of age, the period of parole shall be 20 years and
16 six months unless the board, for good cause, determines that the
17 person will be retained on parole. The board shall make a written
18 record of this determination and transmit a copy of it to the parolee.

19 (B) In the event of a retention on parole, the parolee shall be
20 entitled to a review by the board each year thereafter.

21 (C) There shall be a board hearing consistent with the procedures
22 set forth in Sections 3041.5 and 3041.7 within 12 months of the
23 date of any revocation of parole to consider the release of the
24 inmate on parole, and notwithstanding the provisions of paragraph
25 (3) of subdivision (b) of Section 3041.5, there shall be annual
26 parole consideration hearings thereafter, unless the person is
27 released or otherwise ineligible for parole release. The panel or
28 board shall release the person within one year of the date of the
29 revocation unless it determines that the circumstances and gravity
30 of the parole violation are such that consideration of the public
31 safety requires a more lengthy period of incarceration or unless
32 there is a new prison commitment following a conviction.

33 (D) The provisions of Section 3042 shall not apply to any
34 hearing held pursuant to this subdivision.

35 (5) (A) The Board of Parole Hearings shall consider the request
36 of any inmate whose commitment offense occurred prior to July
37 1, 2013, regarding the length of ~~his or her~~ parole and the conditions
38 thereof.

39 (B) For an inmate whose commitment offense occurred on or
40 after July 1, 2013, except for those inmates described in Section

1 3000.1, the department shall consider the request of the inmate
2 regarding the length of ~~his or her~~ parole and the conditions thereof.
3 For those inmates described in Section 3000.1, the Board of Parole
4 Hearings shall consider the request of the inmate regarding the
5 length of ~~his or her~~ parole and the conditions thereof.

6 (6) Upon successful completion of parole, or at the end of the
7 maximum statutory period of parole specified for the inmate under
8 paragraph (1), (2), (3), or (4), as the case may be, whichever is
9 earlier, the inmate shall be discharged from custody. The date of
10 the maximum statutory period of parole under this subdivision and
11 paragraphs (1), (2), (3), and (4) shall be computed from the date
12 of initial parole and shall be a period chronologically determined.
13 Time during which parole is suspended because the prisoner has
14 absconded or has been returned to custody as a parole violator
15 shall not be credited toward any period of parole unless the prisoner
16 is found not guilty of the parole violation. However, the period of
17 parole is subject to the following:

18 (A) Except as provided in Section 3064, in no case may a
19 prisoner subject to three years on parole be retained under parole
20 supervision or in custody for a period longer than four years from
21 the date of ~~his or her~~ *the* initial parole.

22 (B) Except as provided in Section 3064, in no case may a
23 prisoner subject to five years on parole be retained under parole
24 supervision or in custody for a period longer than seven years from
25 the date of ~~his or her~~ *the* initial parole.

26 (C) Except as provided in Section 3064, in no case may a
27 prisoner subject to 10 years on parole be retained under parole
28 supervision or in custody for a period longer than 15 years from
29 the date of ~~his or her~~ *the* initial parole.

30 (7) The Department of Corrections and Rehabilitation shall meet
31 with each inmate at least 30 days prior to ~~his or her~~ *the inmate's*
32 good time release date and shall provide, under guidelines specified
33 by the parole authority or the department, whichever is applicable,
34 the conditions of parole and the length of parole up to the maximum
35 period of time provided by law. The inmate has the right to
36 reconsideration of the length of parole and conditions thereof by
37 the department or the parole authority, whichever is applicable.
38 The Department of Corrections and Rehabilitation or the board
39 may impose as a condition of parole that a prisoner make payments
40 on the prisoner's outstanding restitution fines or orders imposed

1 pursuant to subdivision (a) or (c) of Section 13967 of the
2 Government Code, as operative prior to September 28, 1994, or
3 subdivision (b) or (f) of Section 1202.4.

4 (8) For purposes of this chapter, and except as otherwise
5 described in this section, the board shall be considered the parole
6 authority.

7 (9) (A) On and after July 1, 2013, the sole authority to issue
8 warrants for the return to actual custody of any state prisoner
9 released on parole rests with the court pursuant to Section 1203.2,
10 except for any escaped state prisoner or any state prisoner released
11 prior to ~~his or her~~ *the prisoner's* scheduled release date who should
12 be returned to custody, and Section 5054.1 shall apply.

13 (B) Notwithstanding subparagraph (A), any warrant issued by
14 the Board of Parole Hearings prior to July 1, 2013, shall remain
15 in full force and effect until the warrant is served or it is recalled
16 by the board. All prisoners on parole arrested pursuant to a warrant
17 issued by the board shall be subject to a review by the board prior
18 to the department filing a petition with the court to revoke the
19 parole of the petitioner.

20 (10) It is the intent of the Legislature that efforts be made with
21 respect to persons who are subject to Section 290.011 who are on
22 parole to engage them in treatment.

23 *SEC. 60. Section 3053.8 of the Penal Code is amended to read:*

24 3053.8. (a) Notwithstanding any other ~~provision of~~ law, when
25 a person is released on parole after having served a term of
26 imprisonment for any of the offenses specified in subdivision (b)
27 in which one or more of the victims was under 14 years of age,
28 and for which registration is required pursuant to the Sex Offender
29 Registration Act, it shall be a condition of parole that the person
30 may not, during ~~his or her~~ *the* period of parole, enter ~~any~~ a park
31 where children regularly gather without the express permission of
32 ~~his or her~~ *the person's* parole agent.

33 (b) Subdivision (a) shall apply to persons released on parole
34 after having served a term of imprisonment for an offense specified
35 in Section 261, ~~262~~, 264.1, 269, 286, 287, 288.5, 288.7, or 289,
36 paragraph (1) of subdivision (b) of Section 288, subdivision (c) of
37 Section 667.51, subdivision (j), (k), or (l) of Section 667.61,
38 Section 667.71, or former Section 262 or 288a.

39 *SEC. 61. Section 3057 of the Penal Code is amended to read:*

1 3057. (a) Confinement pursuant to a revocation of parole in
2 the absence of a new conviction and commitment to prison under
3 other provisions of law, shall not exceed 12 months, except as
4 provided in subdivision (c).

5 (b) Upon completion of confinement pursuant to parole
6 revocation without a new commitment to prison, the inmate shall
7 be released on parole for a period—~~which~~ *that* shall not extend
8 beyond that portion of the maximum statutory period of parole
9 specified by Section 3000 which was unexpired at the time of each
10 revocation.

11 (c) Notwithstanding the limitations in subdivision (a) and in
12 Section 3060.5 upon confinement pursuant to a parole revocation,
13 the parole authority may extend the confinement pursuant to parole
14 revocation for a maximum of an additional 12 months for
15 subsequent acts of misconduct committed by the parolee while
16 confined pursuant to that parole revocation. Upon a finding of
17 good cause to believe that a parolee has committed a subsequent
18 act of misconduct and utilizing procedures governing parole
19 revocation proceedings, the parole authority may extend the period
20 of confinement pursuant to parole revocation as follows: (1) not
21 more than 180 days for an act punishable as a felony, whether or
22 not prosecution is undertaken, (2) not more than 90 days for an
23 act punishable as a misdemeanor, whether or not prosecution is
24 undertaken, and (3) not more than 30 days for an act defined as a
25 serious disciplinary offense pursuant to subdivision (a) of Section
26 2932.

27 (d) (1) Except for parolees specified in paragraph (2), any
28 revocation period imposed under subdivision (a) may be reduced
29 in the same manner and to the same extent as a term of
30 imprisonment may be reduced by worktime credits under Section
31 2933. Worktime credit—~~must~~ *shall* be earned and may be forfeited
32 pursuant to the provisions of Section 2932.

33 Worktime credit forfeited shall not be restored.

34 (2) The following parolees shall not be eligible for credit under
35 this subdivision:

36 (A) Parolees who are sentenced under Section 1168 with a
37 maximum term of life imprisonment.

38 (B) Parolees who violated a condition of parole relating to
39 association with specified persons, entering prohibited areas,
40 attendance at parole outpatient clinics, or psychiatric attention.

1 (C) Parolees who were revoked for conduct described in, or that
2 could be prosecuted under any of the following sections, whether
3 or not prosecution is undertaken: Section 189, Section 191.5,
4 subdivision (a) of Section 192, subdivision (a) of Section 192.5,
5 Section 203, 207, 211, 215, 217.1, or 220, subdivision (b) of
6 Section 241, Section 244, paragraph (1) or (2) of subdivision (a)
7 of Section 245, paragraph (2) or (6) of subdivision (a) of Section
8 261, paragraph (1) or (4) of subdivision (a) of *former* Section 262,
9 Section 264.1, subdivision (c) or (d) of Section 286, subdivision
10 (c) or (d) of Section 287 or of former Section 288a, Section 288,
11 subdivision (a) of Section 289, 347, or 404, subdivision (a) of
12 Section 451, Section 12022, 12022.5, 12022.53, 12022.7, 12022.8,
13 or 25400, Chapter 2 (commencing with Section 29800) of Division
14 9 of Title 4 of Part 6, any provision listed in Section 16590, or
15 Section 664 for any attempt to engage in conduct described in or
16 that could be prosecuted under any of the above-mentioned
17 sections.

18 (D) Parolees who were revoked for any reason if they had been
19 granted parole after conviction of any of the offenses specified in
20 subparagraph (C).

21 (E) Parolees who the parole authority finds at a revocation
22 hearing to be unsuitable for reduction of the period of confinement
23 because of the circumstances and gravity of the parole violation,
24 or because of prior criminal history.

25 (e) Commencing October 1, 2011, this section shall only apply
26 to inmates sentenced to a term of life imprisonment or parolees
27 that on or before September 30, 2011, are pending a final
28 adjudication of a parole revocation charge and subject to
29 subdivision (c) of Section 3000.09.

30 *SEC. 62. Section 11105.3 of the Penal Code is amended to*
31 *read:*

32 11105.3. (a) Notwithstanding any other law, a human resource
33 agency or an employer may request from the Department of Justice
34 records of all convictions or any arrest pending adjudication
35 involving the offenses specified in subdivision (a) of Section 15660
36 of the Welfare and Institutions Code of a person who applies for
37 a license, employment, or volunteer position, in which they would
38 have supervisory or disciplinary power over a minor or any person
39 under their care. The department shall furnish the information to

1 the requesting employer and shall also send a copy of the
2 information to the applicant.

3 (b) ~~Any~~A request for records under subdivision (a) shall include
4 the applicant's fingerprints, which may be taken by the requester,
5 and any other data specified by the department. The department
6 shall not require the applicant's residence address for any request
7 for records pursuant to subdivision (a). The request shall be on a
8 form approved by the department, and the department may charge
9 a fee to be paid by the employer, human resource agency, or
10 applicant for the actual cost of processing the request. However,
11 ~~no~~ a fee shall *not* be charged to a nonprofit organization. Requests
12 received by the department for federal level criminal offender
13 record information shall be forwarded to the Federal Bureau of
14 Investigation by the department to be searched for any record of
15 arrests or convictions.

16 (c) (1) When a request pursuant to this section reveals that a
17 prospective employee or volunteer has been convicted of a
18 violation or attempted violation of Section 220, 261.5, ~~262~~, 273a,
19 273d, or 273.5, *former Section 262*, or any sex offense listed in
20 Section 290, except for the offense specified in subdivision (d) of
21 Section 243.4, and where the agency or employer hires the
22 prospective employee or volunteer, the agency or employer shall
23 notify the parents or guardians of any minor who will be supervised
24 or disciplined by the employee or volunteer. A conviction for a
25 violation or attempted violation of an offense committed outside
26 the State of California shall be included in this notice if the offense
27 would have been a crime specified in this subdivision if committed
28 in California. The notice shall be given to the parents or guardians
29 with whom the child resides, and shall be given at least 10 days
30 prior to the day that the employee or volunteer begins their duties
31 or tasks. Notwithstanding any other law, ~~any~~ a person who conveys
32 or receives information in good faith and in conformity with this
33 section is exempt from prosecution under Section 11142 or 11143
34 for ~~that~~ conveying or receiving ~~of that~~ information.
35 Notwithstanding subdivision (d), the notification requirements of
36 this subdivision shall apply as an additional requirement of any
37 other ~~provision~~ of law requiring criminal record access or
38 dissemination of criminal history information.

39 (2) The notification requirement pursuant to paragraph (1) shall
40 not apply to a misdemeanor ~~conviction for violating Section 261.5~~

1 ~~or to a conviction for violating Section 262 or 273.5. Nothing in~~
2 ~~this conviction. This paragraph shall does not~~ preclude an employer
3 from requesting records of *misdemeanor* convictions ~~for violating~~
4 ~~Section 261.5, 262, or 273.5~~ from the Department of Justice
5 pursuant to this section.

6 (d) ~~Nothing in this~~ *This section supersedes does not supersede*
7 any law requiring criminal record access or dissemination of
8 criminal history information. In any conflict with another statute,
9 dissemination of criminal history information shall be pursuant to
10 the mandatory statute. This subdivision applies to, but is not limited
11 to, requirements pursuant to Article 1 (commencing with Section
12 1500) of Chapter 3 of, and Chapter 3.2 (commencing with Section
13 1569) and Chapter 3.4 (commencing with Section 1596.70) of,
14 Division 2 of, and Section 1522 of, the Health and Safety Code,
15 and Sections 8712, 8811, and 8908 of the Family Code, and Section
16 16519.5 of the Welfare and Institutions Code.

17 (e) The department may adopt regulations to implement the
18 provisions of this section as necessary.

19 (f) As used in this section, “employer” means any nonprofit
20 corporation or other organization specified by the Attorney General
21 that employs or uses the services of volunteers in positions in
22 which the volunteer or employee has supervisory or disciplinary
23 power over a child or children.

24 (g) As used in this section, “human resource agency” means a
25 public or private entity, excluding any agency responsible for
26 licensing of facilities pursuant to the California Community Care
27 Facilities Act (Chapter 3 (commencing with Section 1500)), the
28 California Residential Care Facilities for the Elderly Act (Chapter
29 3.2 (commencing with Section 1569)), Chapter 3.01 (commencing
30 with Section 1568.01), and the California Child Day Care Facilities
31 Act (Chapter 3.4 (commencing with Section 1596.70)) of Division
32 2 of the Health and Safety Code, responsible for determining the
33 character and fitness of a person who is:

34 (1) Applying for a license, employment, or as a volunteer within
35 the human services field that involves the care and security of
36 children, the elderly, the handicapped, or the mentally impaired.

37 (2) Applying to be a volunteer who transports individuals
38 impaired by drugs or alcohol.

39 (3) Applying to adopt a child or to be a foster parent.

1 (h) Except as provided in subdivision (c), ~~any~~ criminal history
2 information obtained pursuant to this section is confidential and
3 ~~no~~ a recipient shall *not* disclose its contents other than for the
4 purpose for which it was acquired.

5 (i) As used in this subdivision, “community youth athletic
6 program” means an employer having as its primary purpose the
7 promotion or provision of athletic activities for youth under 18
8 years of age.

9 ~~(j)~~

10 ~~(i) (1) A community youth athletic program, as defined in~~
11 ~~subdivision (i), program may request state and federal level~~
12 ~~criminal history information pursuant to subdivision (a) for a~~
13 ~~volunteer coach or hired coach candidate. The director of the~~
14 ~~community youth athletic program shall be the custodian of~~
15 ~~records.~~

16 ~~(k)~~

17 (2) The community youth athletic program may request from
18 the Department of Justice subsequent arrest notification service,
19 as provided in Section 11105.2, for a volunteer coach or a hired
20 coach candidate.

21 (3) *As used in this subdivision, “community youth athletic*
22 *program” means an employer having as its primary purpose the*
23 *promotion or provision of athletic activities for youth under 18*
24 *years of age.*

25 ~~(l)~~

26 (j) Compliance with this section does not remove or limit the
27 liability of a mandated reporter pursuant to Section 11166.

28 *SEC. 63. Section 11160 of the Penal Code is amended to read:*

29 11160. (a) A health practitioner, as defined in subdivision (a)
30 of Section 11162.5, employed by a health facility, clinic,
31 physician’s office, local or state public health department, local
32 government agency, or a clinic or other type of facility operated
33 by a local or state public health department who, in the health
34 practitioner’s professional capacity or within the scope of the health
35 practitioner’s employment, provides medical services for a physical
36 condition to a patient whom the health practitioner knows or
37 reasonably suspects is a person described as follows, shall
38 immediately make a report in accordance with subdivision (b):

1 (1) A person suffering from ~~any~~ a wound or other physical
2 injury inflicted by the person's own act or inflicted by another
3 where the injury is by means of a firearm.

4 (2) A person suffering from ~~any~~ a wound or other physical
5 injury inflicted upon the person where the injury is the result of
6 assaultive or abusive conduct.

7 (b) A health practitioner, as defined in subdivision (a) of Section
8 11162.5, employed by a health facility, clinic, physician's office,
9 local or state public health department, local government agency,
10 or a clinic or other type of facility operated by a local or state
11 public health department shall make a report regarding persons
12 described in subdivision (a) to a local law enforcement agency as
13 follows:

14 (1) A report by telephone shall be made immediately or as soon
15 as practically possible.

16 (2) A written report shall be prepared on the standard form
17 developed in compliance with paragraph ~~(4) of this subdivision,~~
18 ~~(4)~~, and adopted by the Office of Emergency Services, or on a
19 form developed and adopted by another state agency that otherwise
20 fulfills the requirements of the standard form. The completed form
21 shall be sent to a local law enforcement agency within two working
22 days of receiving the information regarding the person.

23 (3) A local law enforcement agency shall be notified and a
24 written report shall be prepared and sent pursuant to paragraphs
25 (1) and (2) even if the person who suffered the wound, other injury,
26 or assaultive or abusive conduct has expired, regardless of whether
27 or not the wound, other injury, or assaultive or abusive conduct
28 was a factor contributing to the death, and even if the evidence of
29 the conduct of the perpetrator of the wound, other injury, or
30 assaultive or abusive conduct was discovered during an autopsy.

31 (4) The report shall include, but shall not be limited to, the
32 following:

33 (A) The name of the injured person, if known.

34 (B) The injured person's whereabouts.

35 (C) The character and extent of the person's injuries.

36 (D) The identity of any person the injured person alleges
37 inflicted the wound, other injury, or assaultive or abusive conduct
38 upon the injured person.

39 (c) For the purposes of this section, "injury" does not include
40 any psychological or physical condition brought about solely

1 through the voluntary administration of a narcotic or restricted
2 dangerous drug.

3 (d) For the purposes of this section, “assaultive or abusive
4 conduct” includes any of the following offenses:

5 (1) Murder, in violation of Section 187.

6 (2) Manslaughter, in violation of Section 192 or 192.5.

7 (3) Mayhem, in violation of Section 203.

8 (4) Aggravated mayhem, in violation of Section 205.

9 (5) Torture, in violation of Section 206.

10 (6) Assault with intent to commit mayhem, rape, sodomy, or
11 oral copulation, in violation of Section 220.

12 (7) Administering controlled substances or anesthetic to aid in
13 commission of a felony, in violation of Section 222.

14 (8) Battery, in violation of Section 242.

15 (9) Sexual battery, in violation of Section 243.4.

16 (10) Incest, in violation of Section 285.

17 (11) Throwing any vitriol, corrosive acid, or caustic chemical
18 with intent to injure or disfigure, in violation of Section 244.

19 (12) Assault with a stun gun or taser, in violation of Section
20 244.5.

21 (13) Assault with a deadly weapon, firearm, assault weapon, or
22 machinegun, or by means likely to produce great bodily injury, in
23 violation of Section 245.

24 (14) Rape, in violation of Section ~~261~~. *261 or former Section*
25 *262*.

26 ~~(15) Spousal rape, in violation of Section 262.~~

27 ~~(16)~~

28 ~~(15) Procuring any female a person to have sex with another~~
29 ~~man, person, in violation of Section 266, 266a, 266b, or 266c.~~

30 ~~(17)~~

31 ~~(16) Child abuse or endangerment, in violation of Section 273a~~
32 ~~or 273d.~~

33 ~~(18)~~

34 ~~(17) Abuse of spouse or cohabitant, in violation of Section~~
35 ~~273.5.~~

36 ~~(19)~~

37 ~~(18) Sodomy, in violation of Section 286.~~

38 ~~(20)~~

39 ~~(19) Lewd and lascivious acts with a child, in violation of~~
40 ~~Section 288.~~

1 ~~(21)~~
2 (20) Oral copulation, in violation of Section 287 or former
3 Section 288a.

4 ~~(22)~~
5 (21) Sexual penetration, in violation of Section 289.

6 ~~(23)~~
7 (22) Elder abuse, in violation of Section 368.

8 ~~(24)~~
9 (23) An attempt to commit any crime specified in paragraphs
10 (1) to ~~(23)~~, (22), inclusive.

11 (e) When two or more persons who are required to report are
12 present and jointly have knowledge of a known or suspected
13 instance of violence that is required to be reported pursuant to this
14 section, and when there is an agreement among these persons to
15 report as a team, the team may select by mutual agreement a
16 member of the team to make a report by telephone and a single
17 written report, as required by subdivision (b). The written report
18 shall be signed by the selected member of the reporting team. Any
19 member who has knowledge that the member designated to report
20 has failed to do so shall thereafter make the report.

21 (f) The reporting duties under this section are individual, except
22 as provided in subdivision (e).

23 (g) A supervisor or administrator shall not impede or inhibit the
24 reporting duties required under this section and a person making
25 a report pursuant to this section shall not be subject to any sanction
26 for making the report. However, internal procedures to facilitate
27 reporting and apprise supervisors and administrators of reports
28 may be established, except that these procedures shall not be
29 inconsistent with this article. The internal procedures shall not
30 require ~~any~~ an employee required to make a report under this article
31 to disclose the employee's identity to the employer.

32 (h) For the purposes of this section, it is the Legislature's intent
33 to avoid duplication of information.

34 (i) For purposes of this section only, "employed by a local
35 government agency" includes an employee of an entity under
36 contract with a local government agency to provide medical
37 services.

38 *SEC. 64. Section 12022.3 of the Penal Code is amended to*
39 *read:*

1 12022.3. For each violation of Section 220 involving a specified
2 sexual offense, or for each violation or attempted violation of
3 Section 261, ~~262~~, 264.1, 286, 287, 288, or 289, or former Section
4 262 or 288a, and in addition to the sentence provided, ~~any~~ a person
5 shall receive the following:

6 (a) A 3-, 4-, or 10-year enhancement if the person uses a firearm
7 or a deadly weapon in the commission of the violation.

8 (b) A one-, two-, or five-year enhancement if the person is armed
9 with a firearm or a deadly weapon.

10 *SEC. 65. Section 12022.53 of the Penal Code is amended to*
11 *read:*

12 12022.53. (a) This section applies to the following felonies:

13 (1) Section 187 (murder).

14 (2) Section 203 or 205 (mayhem).

15 (3) Section 207, 209, or 209.5 (kidnapping).

16 (4) Section 211 (robbery).

17 (5) Section 215 (carjacking).

18 (6) Section 220 (assault with intent to commit a specified
19 felony).

20 (7) Subdivision (d) of Section 245 (assault with a firearm on a
21 peace officer or firefighter).

22 (8) Section 261 or *former Section 262* (rape).

23 (9) Section 264.1 (rape or sexual penetration in concert).

24 (10) Section 286 (sodomy).

25 (11) Section 287 or former Section 288a (oral copulation).

26 (12) Section 288 or 288.5 (lewd act on a child).

27 (13) Section 289 (sexual penetration).

28 (14) Section 4500 (assault by a life prisoner).

29 (15) Section 4501 (assault by a prisoner).

30 (16) Section 4503 (holding a hostage by a prisoner).

31 (17) Any felony punishable by death or imprisonment in the
32 state prison for life.

33 (18) Any attempt to commit a crime listed in this subdivision
34 other than an assault.

35 (b) Notwithstanding any other ~~provision of law~~, ~~any~~ a person
36 who, in the commission of a felony specified in subdivision (a),
37 personally uses a firearm, shall be punished by an additional and
38 consecutive term of imprisonment in the state prison for 10 years.
39 The firearm need not be operable or loaded for this enhancement
40 to apply.

1 (c) Notwithstanding any other ~~provision of law, any~~ a person
2 who, in the commission of a felony specified in subdivision (a),
3 personally and intentionally discharges a firearm, shall be punished
4 by an additional and consecutive term of imprisonment in the state
5 prison for 20 years.

6 (d) Notwithstanding any other ~~provision of law, any~~ a person
7 who, in the commission of a felony specified in subdivision (a),
8 Section 246, or subdivision (c) or (d) of Section 26100, personally
9 and intentionally discharges a firearm and proximately causes great
10 bodily injury, as defined in Section 12022.7, or death, to ~~any~~ a
11 person other than an accomplice, shall be punished by an additional
12 and consecutive term of imprisonment in the state prison for 25
13 years to life.

14 (e) (1) The enhancements provided in this section shall apply
15 to any person who is a principal in the commission of an offense
16 if both of the following are pled and proved:

17 (A) The person violated subdivision (b) of Section 186.22.

18 (B) Any principal in the offense committed any act specified
19 in subdivision (b), (c), or (d).

20 (2) An enhancement for participation in a criminal street gang
21 pursuant to Chapter 11 (commencing with Section 186.20) of Title
22 7 of Part 1 shall not be imposed on a person in addition to an
23 enhancement imposed pursuant to this subdivision, unless the
24 person personally used or personally discharged a firearm in the
25 commission of the offense.

26 (f) Only one additional term of imprisonment under this section
27 shall be imposed per person for each crime. If more than one
28 enhancement per person is found true under this section, the court
29 shall impose upon that person the enhancement that provides the
30 longest term of imprisonment. An enhancement involving a firearm
31 specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5,
32 or 12022.55 shall not be imposed on a person in addition to an
33 enhancement imposed pursuant to this section. An enhancement
34 for great bodily injury as defined in Section 12022.7, 12022.8, or
35 12022.9 shall not be imposed on a person in addition to an
36 enhancement imposed pursuant to subdivision (d).

37 (g) Notwithstanding any other ~~provision of law,~~ probation shall
38 not be granted to, nor shall the execution or imposition of sentence
39 be suspended for, ~~any~~ a person found to come within the provisions
40 of this section.

1 (h) The court may, in the interest of justice pursuant to Section
2 1385 and at the time of sentencing, strike or dismiss an
3 enhancement otherwise required to be imposed by this section.
4 The authority provided by this subdivision applies to any
5 resentencing that may occur pursuant to any other law.

6 (i) The total amount of credits awarded pursuant to Article 2.5
7 (commencing with Section 2930) of Chapter 7 of Title 1 of Part
8 3 or pursuant to Section 4019 or any other ~~provision of~~ law shall
9 not exceed 15 percent of the total term of imprisonment imposed
10 on a defendant upon whom a sentence is imposed pursuant to this
11 section.

12 (j) For the penalties in this section to apply, the existence of any
13 fact required under subdivision (b), (c), or (d) shall be alleged in
14 the accusatory pleading and either admitted by the defendant in
15 open court or found to be true by the trier of fact. When an
16 enhancement specified in this section has been admitted or found
17 to be true, the court shall impose punishment for that enhancement
18 pursuant to this section rather than imposing punishment authorized
19 under any other ~~provision of~~ law, unless another enhancement
20 provides for a greater penalty or a longer term of imprisonment.

21 (k) When a person is found to have used or discharged a firearm
22 in the commission of an offense that includes an allegation pursuant
23 to this section and the firearm is owned by that person, a
24 coparticipant, or a coconspirator, the court shall order that the
25 firearm be deemed a nuisance and disposed of in the manner
26 provided in Sections 18000 and 18005.

27 (l) The enhancements specified in this section shall not apply
28 to the lawful use or discharge of a firearm by a public officer, as
29 provided in Section 196, or by any person in lawful self-defense,
30 lawful defense of another, or lawful defense of property, as
31 provided in Sections 197, 198, and 198.5.

32 *SEC. 66. Section 12022.8 of the Penal Code is amended to*
33 *read:*

34 12022.8. ~~Any~~A person who inflicts great bodily injury, as
35 defined in Section 12022.7, on ~~any~~ a victim in a violation of
36 Section 220 involving a specified sexual offense, or a violation or
37 attempted violation of paragraph (2), (3), or (6) of subdivision (a)
38 of Section 261, paragraph (1), (2), or (4) of subdivision (a) of
39 *former* Section 262, Section 264.1, subdivision (b) of Section 288,
40 subdivision (a) of Section 289, or sodomy or oral copulation by

1 force, violence, duress, menace, or fear of immediate and unlawful
2 bodily injury on the victim or another person as provided in Section
3 286 or 287, or former Section 288a, shall receive a five-year
4 enhancement for each violation in addition to the sentence provided
5 for the felony conviction.

6 *SEC. 67. Section 12022.85 of the Penal Code is amended to*
7 *read:*

8 12022.85. (a) ~~Any~~A person who violates one or more of the
9 offenses listed in subdivision (b) with knowledge that ~~he or she~~
10 *the person* has acquired immune deficiency syndrome (AIDS) or
11 with the knowledge that ~~he or she~~ *the person* carries antibodies of
12 the human immunodeficiency virus at the time of the commission
13 of those offenses shall receive a three-year enhancement for each
14 violation in addition to the sentence provided under those sections.

15 (b) Subdivision (a) applies to the following crimes:

16 (1) Rape in violation of Section ~~261~~. 261 or former Section 262.

17 (2) Unlawful intercourse with a person under 18 years of age
18 in violation of Section 261.5.

19 ~~(3) Rape of a spouse in violation of Section 262.~~

20 ~~(4)~~

21 (3) Sodomy in violation of Section 286.

22 ~~(5)~~

23 (4) Oral copulation in violation of Section 287 or former Section
24 288a.

25 (c) For purposes of proving the knowledge requirement of this
26 section, the prosecuting attorney may use test results received
27 under subdivision (c) of Section 1202.1 or subdivision (g) of
28 Section 1202.6.

29 *SEC. 68. Section 13701 of the Penal Code is amended to read:*

30 13701. (a) Every law enforcement agency in this state shall
31 develop, adopt, and implement written policies and standards for
32 officers' responses to domestic violence calls by January 1, 1986.
33 These policies shall reflect that domestic violence is alleged
34 criminal conduct. Further, they shall reflect existing policy that a
35 request for assistance in a situation involving domestic violence
36 is the same as any other request for assistance where violence has
37 occurred.

38 (b) The written policies shall encourage the arrest of domestic
39 violence offenders if there is probable cause that an offense has
40 been committed. These policies also shall require the arrest of an

1 offender, absent exigent circumstances, if there is probable cause
2 that a protective order issued under Chapter 4 (commencing with
3 Section 2040) of Part 1 of Division 6, Division 10 (commencing
4 with Section 6200), or Chapter 6 (commencing with Section 7700)
5 of Part 3 of Division 12, of the Family Code, or Section 136.2 of
6 this code, or by a court of any other state, a commonwealth,
7 territory, or insular possession subject to the jurisdiction of the
8 United States, a military tribunal, or a tribe has been violated.
9 These policies shall discourage, when appropriate, but not prohibit,
10 dual arrests. Peace officers shall make reasonable efforts to identify
11 the dominant aggressor in any incident. The dominant aggressor
12 is the person determined to be the most significant, rather than the
13 first, aggressor. In identifying the dominant aggressor, an officer
14 shall consider the intent of the law to protect victims of domestic
15 violence from continuing abuse, the threats creating fear of physical
16 injury, the history of domestic violence between the persons
17 involved, and whether either person acted in self-defense. ~~These~~
18 ~~arrest policies shall be developed, adopted, and implemented by~~
19 ~~July 1, 1996.~~ Notwithstanding subdivision (d), law enforcement
20 agencies shall develop these policies with the input of local
21 domestic violence agencies.

22 (c) These existing local policies and those developed shall be
23 in writing and shall be available to the public upon request and
24 shall include specific standards for the following:

- 25 (1) Felony arrests.
- 26 (2) Misdemeanor arrests.
- 27 (3) Use of citizen arrests.
- 28 (4) Verification and enforcement of temporary restraining orders
29 when (A) the suspect is present and (B) the suspect has fled.
- 30 (5) Verification and enforcement of stay-away orders.
- 31 (6) Cite and release policies.
- 32 (7) Emergency assistance to victims, such as medical care,
33 transportation to a ~~shelter~~, *shelter* or to a hospital for treatment
34 when necessary, and police standbys for removing personal
35 property and assistance in safe passage out of the victim's
36 residence.
- 37 (8) Assisting victims in pursuing criminal options, such as giving
38 the victim the report number and directing the victim to the proper
39 investigation unit.

1 (9) Furnishing written notice to victims at the scene, including,
2 but not limited to, all of the following information:

3 (A) A statement informing the victim that despite official
4 restraint of the person alleged to have committed domestic
5 violence, the restrained person may be released at any time.

6 (B) A statement that, “For further information about a shelter
7 you may contact ____.”

8 (C) A statement that, “For information about other services in
9 the community, where available, you may contact ____.”

10 (D) A statement that, “For information about the California
11 Victims’ Compensation Program, you may contact
12 1-800-777-9229.”

13 (E) A statement informing the victim of domestic violence that
14 ~~he or she~~ *the victim* may ask the district attorney to file a criminal
15 complaint.

16 (F) A statement informing the victim of the right to go to the
17 superior court and file a petition requesting any of the following
18 orders for relief:

19 (i) An order restraining the attacker from abusing the victim
20 and other family members.

21 (ii) An order directing the attacker to leave the household.

22 (iii) An order preventing the attacker from entering the
23 residence, school, business, or place of employment of the victim.

24 (iv) An order awarding the victim or the other parent custody
25 of or visitation with a minor child or children.

26 (v) An order restraining the attacker from molesting or
27 interfering with minor children in the custody of the victim.

28 (vi) An order directing the party not granted custody to pay
29 support of minor children, if that party has a legal obligation to do
30 so.

31 (vii) An order directing the defendant to make specified debit
32 payments coming due while the order is in effect.

33 (viii) An order directing that either or both parties participate
34 in counseling.

35 (G) A statement informing the victim of the right to file a civil
36 suit for losses suffered as a result of the abuse, including medical
37 expenses, loss of earnings, and other expenses for injuries sustained
38 and damage to property, and any other related expenses incurred
39 by the victim or any agency that shelters the victim.

1 (H) In the case of an alleged violation of subdivision (e) of
2 Section 243 or Section 261, 261.5, ~~262~~, 273.5, 286, 287, or 289,
3 or former Section *262 or* 288a, a “Victims of Domestic Violence”
4 card which shall include, but is not limited to, the following
5 information:

6 (i) The names and phone numbers of or local county hotlines
7 for, or both the phone numbers of and local county hotlines for,
8 local shelters for ~~battered women~~ *victims of domestic violence* and
9 rape victim counseling centers within the county, including those
10 centers specified in Section 13837, and their 24-hour counseling
11 service telephone numbers.

12 (ii) A simple statement on the proper procedures for a victim
13 to follow after a sexual assault.

14 (iii) A statement that sexual assault by a person who is known
15 to the victim, including sexual assault by a person who is the
16 spouse of the victim, is a crime.

17 (iv) A statement that domestic violence or assault by a person
18 who is known to the victim, including domestic violence or assault
19 by a person who is the spouse of the victim, is a crime.

20 (I) A statement informing the victim that strangulation may
21 cause internal injuries and encouraging the victim to seek medical
22 attention.

23 (10) Writing of reports.

24 (d) In the development of these policies and standards, each
25 local department is encouraged to consult with domestic violence
26 experts, such as the staff of the local shelter for ~~battered women~~
27 *victims of domestic violence* and their children. Departments may
28 use the response guidelines developed by the commission in
29 developing local policies.

30 *SEC. 69. Section 13750 of the Penal Code is amended to read:*

31 13750. (a) A city, county, city and county, or community-based
32 nonprofit organization may each establish a multiagency,
33 multidisciplinary family justice center to assist victims of domestic
34 violence, sexual assault, elder or dependent adult abuse, and human
35 trafficking, to ensure that victims of abuse are able to access all
36 needed services in one location in order to enhance victim safety,
37 increase offender accountability, and improve access to services
38 for victims of domestic violence, sexual assault, elder or dependent
39 adult abuse, and human trafficking.

1 (b) For purposes of this title, the following terms have the
2 following meanings:

3 (1) “Abuse” has the same meaning as set forth in Section 6203
4 of the Family Code.

5 (2) “Domestic violence” has the same meaning as set forth in
6 Section 6211 of the Family Code.

7 (3) “Sexual assault” means an act or attempt made punishable
8 by Section 220, 261, 261.5, ~~262~~, 264.1, 266c, 269, 285, 286, 287,
9 288, 288.5, 289, or 647.6, or former Section 262 *or* 288a.

10 (4) “Elder or dependent adult abuse” means an act made
11 punishable by Section 368.

12 (5) “Human trafficking” has the same meaning as set forth in
13 Section 236.1.

14 (c) For purposes of this title, family justice centers shall be
15 defined as multiagency, multidisciplinary service centers where
16 public and private agencies assign staff members on a full-time or
17 part-time basis in order to provide services to victims of domestic
18 violence, sexual assault, elder or dependent adult abuse, or human
19 trafficking from one location in order to reduce the number of
20 times victims must tell their story, reduce the number of places
21 victims must go for help, and increase access to services and
22 support for victims and their children. Staff members at a family
23 justice center may be comprised of, but are not limited to, the
24 following:

25 (1) Law enforcement personnel.

26 (2) Medical personnel.

27 (3) District attorneys and city attorneys.

28 (4) Victim-witness program personnel.

29 (5) Domestic violence shelter service staff.

30 (6) Community-based rape crisis, domestic violence, and human
31 trafficking advocates.

32 (7) Social service agency staff members.

33 (8) Child welfare agency social workers.

34 (9) County health department staff.

35 (10) City or county welfare and public assistance workers.

36 (11) Nonprofit agency counseling professionals.

37 (12) Civil legal service providers.

38 (13) Supervised volunteers from partner agencies.

39 (14) Other professionals providing services.

1 (d) ~~Nothing in this~~ This section is intended to does not abrogate
2 existing laws regarding privacy or information sharing. Family
3 justice center staff members shall comply with the laws governing
4 their respective professions.

5 (e) Victims of crime shall not be denied services on the grounds
6 of criminal history. ~~No~~ A criminal history search shall not be
7 conducted of a victim at a family justice center without the victim’s
8 written consent unless the criminal history search is pursuant to a
9 criminal investigation.

10 (f) Victims of crime shall not be required to participate in the
11 criminal justice system or cooperate with law enforcement in order
12 to receive counseling, medical care, or other services at a family
13 justice center.

14 (g) (1) Each family justice center shall consult with
15 community-based domestic violence, sexual assault, elder or
16 dependent adult abuse, and human trafficking agencies in
17 partnership with survivors of violence and abuse and their
18 advocates in the operations process of the family justice center,
19 and shall establish procedures for the ongoing input, feedback,
20 and evaluation of the family justice center by survivors of violence
21 and abuse and community-based crime victim service providers
22 and advocates.

23 (2) Each family justice center shall develop policies and
24 procedures, in collaboration with local community-based crime
25 victim service providers and local survivors of violence and abuse,
26 to ensure coordinated services are provided to victims and to
27 enhance the safety of victims and professionals at the family justice
28 center who participate in affiliated survivor-centered support or
29 advocacy groups. Each family justice center shall maintain a formal
30 client feedback, complaint, and input process to address client
31 concerns about services provided or the conduct of any family
32 justice center professionals, agency partners, or volunteers
33 providing services in the family justice center.

34 (h) (1) Each family justice center shall maintain a client consent
35 policy and shall be in compliance with all state and federal laws
36 protecting the confidentiality of the types of information and
37 documents that may be in a victim’s file, including, but not limited
38 to, medical, legal, and victim counselor records. Each family justice
39 center shall have a designated privacy officer to develop and
40 oversee privacy policies and procedures consistent with state and

1 federal privacy laws and the Fair Information Practice Principles
2 promulgated by the United States Department of Homeland
3 Security. At no time shall a victim be required to sign a client
4 consent form to share information in order to access services.

5 (2) Each family justice center is required to obtain informed,
6 written, reasonably time limited, consent from the victim before
7 sharing information obtained from the victim with any staff
8 member or agency partner, except as provided in paragraphs (3)
9 and (4).

10 (3) A family justice center is not required to obtain consent from
11 the victim before sharing information obtained from the victim
12 with any staff member or agency partner if the person is a mandated
13 reporter, a peace officer, or a member of the prosecution team and
14 is required to report or disclose specific information or incidents.
15 These persons shall inform the victim that they may share
16 information obtained from the victim without the victim's consent.

17 (4) Each family justice center is required to inform the victim
18 that information shared with staff members or partner agencies at
19 a family justice center may be shared with law enforcement
20 professionals without the victim's consent if there is a mandatory
21 duty to report, or the client is a danger to ~~himself~~ *themselves* or
22 ~~herself~~, or others. Each family justice center shall obtain written
23 acknowledgment that the victim has been informed of this policy.

24 (5) Consent by a victim for sharing information within a family
25 justice center pursuant to this section shall not be construed as a
26 universal waiver of any existing evidentiary privilege that makes
27 confidential any communications or documents between the victim
28 and any service provider, including, but not limited to, any lawyer,
29 advocate, sexual assault or domestic violence counselor as defined
30 in Section 1035.2 or 1037.1 of the Evidence Code, human
31 trafficking caseworker as defined in Section 1038.2 of the Evidence
32 Code, therapist, doctor, or nurse. Any oral or written
33 communication or any document authorized by the victim to be
34 shared for the purposes of enhancing safety and providing more
35 effective and efficient services to the victim of domestic violence,
36 sexual assault, elder or dependent adult abuse, or human trafficking
37 shall not be disclosed to any third party, unless that third-party
38 disclosure is authorized by the victim, or required by other state
39 or federal law or by court order.

1 (i) An individual staff member, volunteer, or agency that has
 2 victim information governed by this section shall not be required
 3 to disclose that information unless the victim has consented to the
 4 disclosure or it is otherwise required by other state or federal law
 5 or by court order.

6 (j) A disclosure of information consented to by the victim in a
 7 family justice center, made for the purposes of clinical assessment,
 8 risk assessment, safety planning, or service delivery, shall not be
 9 deemed a waiver of any privilege or confidentiality provision
 10 contained in Sections 2263, 2918, 4982, and 6068 of the Business
 11 and Professions Code, the lawyer-client privilege protected by
 12 Article 3 (commencing with Section 950) of Chapter 4 of Division
 13 8 of the Evidence Code, the physician-patient privilege protected
 14 by Article 6 (commencing with Section 990) of Chapter 4 of
 15 Division 8 of the Evidence Code, the psychotherapist-patient
 16 privilege protected by Article 7 (commencing with Section 1010)
 17 of Chapter 4 of Division 8 of the Evidence Code, the sexual assault
 18 counselor-victim privilege protected by Article 8.5 (commencing
 19 with Section 1035) of Chapter 4 of Division 8 of the Evidence
 20 Code, or the domestic violence counselor-victim privilege protected
 21 by Article 8.7 (commencing with Section 1037) of Chapter 4 of
 22 Division 8 of the Evidence Code.

23 *SEC. 70. Section 13837 of the Penal Code is amended to read:*

24 13837. (a) (1) The California Office of Emergency Services
 25 (Cal OES) shall provide grants to proposed and existing child
 26 sexual exploitation and child sexual abuse victim counseling
 27 centers and prevention programs, including programs for minor
 28 victims of human trafficking. Grant recipients shall provide
 29 appropriate in-person counseling and referral services during
 30 normal business hours, and maintain other standards or services
 31 ~~which~~ *that* shall be determined to be appropriate by the advisory
 32 committee established pursuant to Section 13836 as grant
 33 conditions. The advisory committee shall identify the criteria to
 34 be utilized in awarding the grants provided by this chapter before
 35 any funds are allocated.

36 ~~In~~

37 (2) *In* order to be eligible for funding pursuant to this chapter,
 38 the centers shall demonstrate an ability to receive and make use
 39 of any funds available from governmental, voluntary, philanthropic,
 40 or other sources ~~which~~ *that* may be used to augment any state funds

1 appropriated for purposes of this chapter. Each center receiving
2 funds pursuant to this chapter shall make every attempt to qualify
3 for any available federal funding.

4 ~~State~~

5 (3) *State* funds provided to establish centers shall be utilized
6 when possible, as determined by the advisory committee, to expand
7 the program and shall not be expended to reduce fiscal support
8 from other public or private sources. The centers shall maintain
9 quarterly and final fiscal reports in a form to be prescribed by the
10 administering agency. In granting funds, the advisory committee
11 shall give priority to centers which are operated in close proximity
12 to medical treatment facilities.

13 (b) (1) It is the intent of the Legislature that a goal or purpose
14 of the Cal OES is to ensure that all victims of sexual assault and
15 rape receive comprehensive, quality services, and to decrease the
16 incidence of sexual assault through school and community
17 education and prevention programs.

18 (2) The Cal OES and the advisory committee established
19 pursuant to Section 13836 shall collaboratively administer sexual
20 assault/rape crisis center victim services programs and provide
21 grants to proposed and existing sexual assault services programs
22 (SASPs) operating local rape victim centers and prevention
23 programs. All SASPs shall provide the services in subparagraphs
24 (A) to (G), inclusive, and to the extent federal funding is made
25 available, shall also provide the service described in subparagraph
26 (H). The Cal OES shall provide financial and technical assistance
27 to SASPs in implementing the following services:

28 (A) Crisis intervention, 24 hours per day, seven days per week.

29 (B) Followup counseling services.

30 (C) In-person counseling, including group counseling.

31 (D) Accompaniment services.

32 (E) Advocacy services.

33 (F) Information and referrals to victims and the general public.

34 (G) Community education presentations.

35 (H) Rape prevention presentations and self-defense programs.

36 (3) The funding process for distributing grant awards to SASPs
37 shall be administered as follows:

38 (A) The Cal OES and the advisory committee established
39 pursuant to Section 13836 shall collaboratively adopt each of the
40 following:

1 (i) The process and standards for determining whether to grant,
2 renew, or deny funding to any SASP applying or reapplying for
3 funding under the terms of the program.

4 (ii) For SASPs applying for grants under the RFP process
5 described in subparagraph (B), a system for grading grant
6 applications in relation to the standards established pursuant to
7 clause (i), and an appeal process for applications that are denied.
8 A description of this grading system and appeal process shall be
9 provided to all SASPs as part of the application required under the
10 RFP process.

11 (iii) For SASPs reapplying for funding under the RFA process
12 described in subparagraph (D), a system for grading the
13 performance of SASPs in relation to the standards established
14 pursuant to clause (i), and an appeal process for decisions to deny
15 or reduce funding. A description of this grading system and appeal
16 process shall be provided to all SASPs receiving grants under this
17 program.

18 (B) Grants for centers that have previously not been funded or
19 were not funded in the previous cycle shall be awarded as a result
20 of a competitive request for proposal (RFP) process. The RFP
21 process shall comply with all applicable state and federal statutes
22 for sexual assault/rape crisis center funding, and to the extent
23 possible, the response to the RFP shall not exceed 25 narrative
24 pages, excluding attachments.

25 (C) Grants shall be awarded to SASPs that propose to maintain
26 services previously granted funding pursuant to this section, to
27 expand existing services or create new services, or to establish
28 new sexual assault/rape crisis centers in underserved or unserved
29 areas. Each grant shall be awarded for a three-year term.

30 (D) SASPs reapplying for grants are not subject to a competitive
31 bidding grant process, but are subject to a request for application
32 (RFA) process. The RFA process for a SASP reapplying for grant
33 funds shall ~~consist~~ *consist*, ~~in-part~~ *in part*, of an assessment of the
34 past performance history of the SASP in relation to the standards
35 established pursuant to subparagraph (A). The RFA process shall
36 comply with all applicable state and federal statutes for sexual
37 assault/rape crisis center funding, and to the extent possible, the
38 response to the RFA shall not exceed 10 narrative pages, excluding
39 attachments.

1 (E) Any SASP funded through this program in the previous
2 grant cycle shall be funded upon reapplication, unless its past
3 performance history fails to meet the standards established pursuant
4 to clause (i) of subparagraph (A).

5 (F) The Cal OES shall conduct a minimum of one site visit
6 every three years for each agency funded to provide sexual
7 assault/rape crisis centers. The purpose of the site visit shall be to
8 conduct a performance assessment of, and provide subsequent
9 technical assistance for, each center visited. The performance
10 assessment shall include, but need not be limited to, a review of
11 all of the following:

12 (i) Progress in meeting program goals and objectives.

13 (ii) Agency organization and facilities.

14 (iii) Personnel policies, files, and training.

15 (iv) Recordkeeping, budgeting, and expenditures.

16 (v) Documentation, data collection, and client confidentiality.

17 (G) After each site visit conducted pursuant to subparagraph
18 (F), the Cal OES shall provide a written report to the SASP
19 summarizing the performance of the SASP, any deficiencies noted,
20 any corrective action needed, and a deadline for corrective action
21 to be completed. The Cal OES shall also develop a corrective
22 action plan for verifying the completion of ~~any~~ corrective action
23 required. The Cal OES shall submit its written report to the SASP
24 no more than 60 days after the site visit. A grant under the RFA
25 process shall not be denied if the SASP did not receive a site visit
26 during the previous three years, unless the Cal OES is aware of
27 criminal violations relative to the administration of grant funding.

28 (H) SASPs receiving written reports of deficiencies or orders
29 for corrective action after a site visit shall be given no less than
30 six months' time to take corrective action before the deficiencies
31 or failure to correct may be considered in the next RFA process.
32 However, the Cal OES shall have the discretion to reduce the time
33 to take corrective action in cases where the deficiencies present a
34 significant health or safety risk or when other severe circumstances
35 are found to exist. If corrective action is deemed necessary, and a
36 SASP fails to comply, or if other deficiencies exist that, in the
37 judgment of the Cal OES, cannot be corrected, the Cal OES shall
38 determine, using its grading system, whether continued funding
39 for the SASP should be reduced or denied altogether. If a SASP
40 has been determined to be deficient, the Cal OES may, at any point

1 during the SASP's funding cycle following the expiration of the
2 period for corrective action, deny or reduce ~~any~~ further funding.

3 (I) If a SASP applies or reapplies for funding pursuant to this
4 section and that funding is denied or reduced, the decision to deny
5 or reduce funding shall be provided in writing to the SASP, along
6 with a written explanation of the reasons for the reduction or denial
7 made in accordance with the grading system for the RFP or RFA
8 process. Except as otherwise provided, any appeal of the decision
9 to deny or reduce funding shall be made in accordance with the
10 appeal process established by the Cal OES. The appeal process
11 shall allow a SASP a minimum of 30 days to appeal after a decision
12 to deny or reduce funding. All pending appeals shall be resolved
13 before final funding decisions are reached.

14 (J) It is the intent of the Legislature that priority for additional
15 funds that become available be given to currently funded, new, or
16 previously unfunded SASPs for expansion of services. However,
17 the Cal OES may determine when expansion is needed to
18 accommodate underserved or unserved areas. If supplemental
19 funding is unavailable, the Cal OES shall have the authority to
20 lower the base level of grants to all currently funded SASPs in
21 order to provide funding for currently funded, new, or previously
22 unfunded SASPs that will provide services in underserved or
23 unserved areas. However, to the extent reasonable, funding
24 reductions shall be reduced proportionately among all currently
25 funded SASPs. After the amount of funding reductions has been
26 determined, SASPs that are currently funded and those applying
27 for funding shall be notified of changes in the available level of
28 funding prior to the next application process. Funding reductions
29 made under this paragraph shall not be subject to appeal.

30 (K) Notwithstanding any other provision of this section, the Cal
31 OES may reduce funding to a SASP funded pursuant to this section
32 if federal funding support is reduced. Funding reductions as a result
33 of a reduction in federal funding are not subject to appeal.

34 (L) This section shall not be construed to supersede any function
35 or duty required by federal acts, rules, regulations, or guidelines
36 for the distribution of federal grants.

37 (M) As a condition of receiving funding pursuant to this section,
38 a SASP shall do each of the following:

39 (i) Demonstrate an ability to receive and make use of any funds
40 available from governmental, voluntary, philanthropic, or other

1 sources that may be used to augment any state funds appropriated
2 for purposes of this chapter.

3 (ii) Make every attempt to qualify for any available federal
4 funding.

5 (N) For the purposes of this paragraph, “sexual assault” means
6 an act or attempt made punishable by Section 220, 261, 261.5,
7 ~~262~~, 264.1, 266c, 285, 286, 287, 288, or 647.6, or former Section
8 ~~262~~ or 288a.

9 (O) For the purposes of this paragraph, “sexual assault services
10 program” or “SASP” means an agency operating a sexual
11 assault/rape crisis center.

12 *SEC. 71. Section 14205 of the Penal Code is amended to read:*

13 14205. (a) The online missing persons registry shall accept
14 and generate complete information on a missing person.

15 (b) The information on a missing person shall be retrievable by
16 any of the following:

17 (1) The person’s name.

18 (2) The person’s date of birth.

19 (3) The person’s social security number.

20 (4) Whether a dental chart has been received, coded, and entered
21 into the National Crime Information Center Missing Person System
22 by the Attorney General.

23 (5) The person’s physical description, including hair and eye
24 color and body marks.

25 (6) The person’s known associates.

26 (7) The person’s last known location.

27 (8) The name or assumed name of the abductor, if applicable,
28 other pertinent information relating to the abductor or the assumed
29 abductor, or both.

30 (9) Any other information, as deemed appropriate by the
31 Attorney General.

32 (c) The Attorney General, in consultation with local law
33 enforcement agencies and other user groups, shall develop the
34 form in which information shall be entered into the system.

35 (d) The Attorney General shall establish and maintain within
36 the center a separate, confidential historic database relating to
37 missing children and at-risk adults. The historic database may be
38 used only by the center for statistical and research purposes. The
39 historic database shall be set up to categorize cases relating to

1 missing children and at-risk adults by type. These types shall
2 include the following:

3 (1) Runaways.

4 (2) Voluntary missing.

5 (3) Lost.

6 (4) Abduction involving movement of the victim in the
7 commission of the crime or sexual exploitation.

8 (5) Nonfamily abduction.

9 (6) Family abduction.

10 (7) Any other categories as determined by the Attorney General.

11 (e) In addition, the data shall include the number of missing
12 children and missing at-risk adults in this state and the category
13 of each case.

14 (f) The center may supply information about specific cases from
15 the historic database to a local police department, sheriff's
16 department, or district attorney, only in connection with an
17 investigation by the police department, sheriff's department, or
18 district attorney of a missing person case or a violation or attempted
19 violation of Section 220, 261.5, ~~262~~, 273a, 273d, or 273.5, or any
20 sex offense listed in Section 290, except for the offense specified
21 in subdivision (d) of Section 243.4.

22 *SEC. 72. Section 5164 of the Public Resources Code is*
23 *amended to read:*

24 5164. (a) (1) A county, city, city and county, or special district
25 shall not hire a person for employment, or hire a volunteer to
26 perform services, at a county, city, city and county, or special
27 district operated park, playground, recreational center, or beach
28 used for recreational purposes, in a position having supervisory
29 or disciplinary authority over a minor, if that person has been
30 convicted of an offense specified in paragraph (2).

31 (2) (A) A violation or attempted violation of Section 220, 261.5,
32 ~~262~~, 273a, 273d, or 273.5 of the Penal Code, or a sex offense listed
33 in Section 290 of the Penal Code, except for the offense specified
34 in subdivision (d) of Section 243.4 of the Penal Code.

35 (B) A felony or misdemeanor conviction specified in
36 subparagraph (C) within 10 years of the date of the employer's
37 request.

38 (C) A felony conviction that is over 10 years old, if the subject
39 of the request was incarcerated within 10 years of the employer's
40 request, for a violation or attempted violation of an offense

1 specified in Chapter 3 (commencing with Section 207) of Title 8
2 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code,
3 wherein it is charged and proved that the defendant personally
4 used a deadly or dangerous weapon, as provided in subdivision
5 (b) of Section 12022 of the Penal Code, in the commission of that
6 offense, Section 217.1 of the Penal Code, Section 236 of the Penal
7 Code, an offense specified in Chapter 9 (commencing with Section
8 240) of Title 8 of Part 1 of the Penal Code, or an offense specified
9 in subdivision (c) of Section 667.5 of the Penal Code, provided
10 that a record of a misdemeanor conviction shall not be transmitted
11 to the requester unless the subject of the request has a total of three
12 or more misdemeanor convictions, or a combined total of three or
13 more misdemeanor and felony convictions, for violations listed in
14 this section within the 10-year period immediately preceding the
15 employer's request or has been incarcerated for any of those
16 convictions within the preceding 10 years.

17 (b) (1) To give effect to this section, a county, city, city and
18 county, or special district shall require each such prospective
19 employee or volunteer to complete an application that inquires as
20 to whether or not that individual has been convicted of an offense
21 specified in subdivision (a). The county, city, city and county, or
22 special district shall screen, pursuant to Section 11105.3 of the
23 Penal Code, any such prospective employee or volunteer, having
24 supervisory or disciplinary authority over a minor, for that person's
25 criminal background.

26 (2) A local agency request for Department of Justice records
27 pursuant to this subdivision shall include the prospective
28 employee's or volunteer's fingerprints, which may be taken by the
29 local agency, and any other data specified by the Department of
30 Justice. The request shall be made on a form approved by the
31 Department of Justice. A fee shall not be charged to the local
32 agency for requesting the records of a prospective volunteer
33 pursuant to this subdivision.

34 (3) A county, city, city and county, or special district may charge
35 a prospective employee or volunteer described in subdivision (a)
36 a fee to cover all of the county, city, city and county, or special
37 district's costs attributable to the requirements imposed by this
38 section.

39 *SEC. 73. Section 4467 of the Vehicle Code is amended to read:*

1 4467. (a) Notwithstanding any other ~~provision~~ of law, the
2 department shall issue new and different license plates immediately
3 upon request to the registered owner of a vehicle who appears in
4 person and submits a completed application, if all of the following
5 are provided:

6 (1) Proof of ownership of the vehicle that is acceptable to the
7 department.

8 (2) A driver's license or identification card containing a picture
9 of the licensee or cardholder issued to the registered owner by the
10 department pursuant to Chapter 1 (commencing with Section
11 12500) of Division 6. The department shall conduct a search of
12 its records to verify the authenticity of any document submitted
13 under this paragraph.

14 (3) The previously issued license plates from the vehicle.

15 (4) The payment of required fees under subdivision (c) of
16 Section 4850 and subdivision (b) of Section 9265 for the issuance
17 of duplicate license plates.

18 (5) One of the following:

19 (A) A copy of a police report, court documentation, or other
20 law enforcement documentation identifying the registered owner
21 of the vehicle as the victim of an incident of domestic violence,
22 as specified in Section 1708.6 of the Civil Code, the subject of
23 stalking, as specified in Section 1708.7 of the Civil Code or Section
24 646.9 of the Penal Code, the victim of a rape, as defined in Section
25 261 or *former Section* 262 of the Penal Code, or the victim of a
26 sexual battery, as defined in Section 1708.5 of the Civil Code.

27 (B) A written acknowledgment, dated within 30 days of
28 submission, on the letterhead of a domestic violence agency or a
29 rape crisis center, that the registered owner is actively seeking
30 assistance or has sought assistance from that agency within the
31 past year.

32 (C) An active protective order as defined in Section 6218 of the
33 Family Code, or issued pursuant to Section 527.6 or 527.8 of the
34 Code of Civil Procedure, ~~which~~ *that* names the registered owner
35 as a protected party.

36 (b) Subdivision (a) does not apply to special license plates issued
37 under Article 8 (commencing with Section 5000) of Chapter 1 of
38 Division 3, special interest license plates issued under Article 8.4
39 (commencing with Section 5060) of Chapter 1 of Division 3, or

1 environmental license plates issued under Article 8.5 (commencing
2 with Section 5100) of Chapter 1 of Division 3.

3 *SEC. 74. Section 6500 of the Welfare and Institutions Code is*
4 *amended to read:*

5 6500. (a) For purposes of this article, the following definitions
6 shall apply:

7 (1) “Dangerousness to self or others” shall include, but not be
8 limited to, a finding of incompetence to stand trial pursuant to the
9 provisions of Chapter 6 (commencing with Section 1367) of Title
10 10 of Part 2 of the Penal Code when the defendant has been charged
11 with murder, mayhem, aggravated mayhem, a violation of Section
12 207, 209, or 209.5 of the Penal Code in which the victim suffers
13 intentionally inflicted great bodily injury, robbery perpetrated by
14 torture or by a person armed with a dangerous or deadly weapon
15 or in which the victim suffers great bodily injury, carjacking
16 perpetrated by torture or by a person armed with a dangerous or
17 deadly weapon or in which the victim suffers great bodily injury,
18 a violation of subdivision (b) of Section 451 of the Penal Code, a
19 violation of paragraph (1) or (2) of subdivision (a) of *former*
20 Section 262 or paragraph (2) or (3) of subdivision (a) of Section
21 261 of the Penal Code, a violation of Section 288 of the Penal
22 Code, any of the following acts when committed by force, violence,
23 duress, menace, fear of immediate and unlawful bodily injury on
24 the victim or another person: a violation of paragraph (1) or (2) of
25 subdivision (a) of *former* Section 262 of the Penal Code, a violation
26 of Section 264.1, 286, or 287 of, or former Section 288a of, the
27 Penal Code, or a violation of subdivision (a) of Section 289 of the
28 Penal Code; a violation of Section 459 of the Penal Code in the
29 first degree, assault with intent to commit murder, a violation of
30 Section 220 of the Penal Code in which the victim suffers great
31 bodily injury, a violation of Section 18725, 18740, 18745, 18750,
32 or 18755 of the Penal Code, or if the defendant has been charged
33 with a felony involving death, great bodily injury, or an act ~~which~~
34 *that* poses a serious threat of bodily harm to another person.

35 (2) “Developmental disability” shall have the same meaning as
36 defined in subdivision (a) of Section 4512.

37 (b) (1) A person with a developmental disability may be
38 committed to the State Department of Developmental Services for
39 residential placement other than in a ~~state~~ developmental center
40 or state-operated community facility, as provided in subdivision

1 (a) of Section 6509, if the person is found to be a danger to self or
2 others.

3 (A) An order of commitment made pursuant to this paragraph
4 shall expire automatically one year after the order of commitment
5 is made.

6 (B) This paragraph does not prohibit any party enumerated in
7 Section 6502 from filing subsequent petitions for additional periods
8 of commitment. If subsequent petitions are filed, the procedures
9 followed shall be the same as with the initial petition for
10 commitment.

11 (2) A person with a developmental disability shall not be
12 committed to the State Department of Developmental Services for
13 placement in a ~~state~~ developmental center or state-operated
14 community facility pursuant to this article unless the person meets
15 the criteria for admission to a developmental center or
16 state-operated community facility pursuant to paragraph (2), (3),
17 (4), (5), or (7) of subdivision (a) of Section 7505 and is dangerous
18 to self or others or the person currently is a resident of a state
19 developmental center or state-operated community facility pursuant
20 to an order of commitment made pursuant to this article prior to
21 July 1, 2012, and is being recommitted pursuant to paragraph (4)
22 of this subdivision.

23 (3) If the person with a developmental disability is in the care
24 or treatment of a state hospital, developmental center, or other
25 facility at the time a petition for commitment is filed pursuant to
26 this article, proof of a recent overt act while in the care and
27 treatment of a state hospital, developmental center, or other facility
28 is not required in order to find that the person is a danger to self
29 or others.

30 (4) If subsequent petitions are filed with respect to a resident
31 of a ~~state~~ developmental center or a state-operated community
32 facility committed prior to July 1, 2012, the procedures followed
33 and criteria for recommitment shall be the same as with the initial
34 petition for commitment.

35 (5) In any proceedings conducted under the authority of this
36 article, the person alleged to have a developmental disability shall
37 be informed of their right to counsel by the court and, if the person
38 does not have an attorney for the proceedings, the court shall
39 immediately appoint the public defender or other attorney to
40 represent them. The person shall pay the cost for the legal services

1 if the person is able to do so. At any judicial proceeding under this
2 article, allegations that a person has a developmental disability
3 and is dangerous to self or others shall be presented by the district
4 attorney for the county unless the board of supervisors, by
5 ordinance or resolution, delegates this authority to the county
6 counsel. The regional center shall inform the clients' rights
7 advocate, as described in Section 4433, when a petition is filed
8 under this section and when a petition expires. The clients' rights
9 advocate for the regional center may attend any judicial
10 proceedings to assist in protecting the individual's rights.

11 (c) (1) An order of commitment made pursuant to this article
12 with respect to a person described in paragraph (3) of subdivision
13 (a) of Section 7505 shall expire automatically one year after the
14 order of commitment is made. This section does not prohibit a
15 party enumerated in Section 6502 from filing subsequent petitions
16 for additional periods of commitment. If subsequent petitions are
17 filed, the procedures followed shall be the same as with an initial
18 petition for commitment.

19 (2) An order of commitment made pursuant to this article on or
20 after July 1, 2012, with respect to the admission to a developmental
21 center or state-operated community facility of a person described
22 in paragraph (2), (3), (4), or (7) of subdivision (a) of Section 7505
23 shall expire automatically six months after the earlier of the order
24 of commitment pursuant to this section or the order of a placement
25 in a developmental center pursuant to Section 6506, unless the
26 regional center, prior to the expiration of the order of commitment,
27 notifies the court in writing of the need for an extension. The
28 required notice shall state facts demonstrating that the individual
29 continues to be in acute crisis, as defined in paragraph (1) of
30 subdivision (d) of Section 4418.7, and the justification for the
31 requested extension, and shall be accompanied by the
32 comprehensive assessment and plan described in subdivision (e)
33 of Section 4418.7. An order granting an extension shall not extend
34 the total period of commitment beyond one year, including a
35 placement in a developmental center pursuant to Section 6506. If,
36 prior to expiration of one year, the regional center notifies the court
37 in writing of facts demonstrating that, due to circumstances beyond
38 the regional center's control, the placement cannot be made prior
39 to expiration of the extension, and the court determines that good
40 cause exists, the court may grant one further extension of up to 30

1 days. The court may also issue any orders the court deems
2 appropriate to ensure that necessary steps are taken to ensure that
3 the individual can be safely and appropriately transitioned to the
4 community in a timely manner. The required notice shall state
5 facts demonstrating that the regional center has made significant
6 progress implementing the plan described in subdivision (e) of
7 Section 4418.7 and that extraordinary circumstances exist beyond
8 the regional center's control that have prevented the plan's
9 implementation. This paragraph does not preclude the individual
10 or a person acting on the person's behalf from making a request
11 for release pursuant to Section 4800, or counsel for the individual
12 from filing a petition for habeas corpus pursuant to Section 4801.
13 Notwithstanding subdivision (a) of Section 4801, for purposes of
14 this paragraph, judicial review shall be in the superior court of the
15 county that issued the order of commitment pursuant to this section.

16 (3) An order of commitment made pursuant to this article on or
17 after January 1, 2020, with respect to the admission to an institution
18 for mental disease, as described in subparagraph (C) of paragraph
19 (9) of subdivision (a) of Section 4648, shall expire automatically
20 six months after the earlier of the order of commitment pursuant
21 to this section, the order of a placement in an institution for mental
22 disease pursuant to Section 6506, or the date the regional center
23 placed the individual in the institution for mental disease, unless
24 the regional center notifies the court in writing of the need for an
25 extension. The required notice shall state facts demonstrating that
26 the individual continues to be in acute crisis, as defined in
27 paragraph (1) of subdivision (d) of Section 4418.7, and the
28 justification for the requested extension, and shall be accompanied
29 by the comprehensive assessment and plan described in clause (v)
30 of subparagraph (C) of paragraph (9) of subdivision (a) of Section
31 4648. An order granting an extension shall not extend the total
32 period of commitment beyond one year, including a placement in
33 an institution for mental disease pursuant to Section 6506. If, prior
34 to expiration of one year, the regional center notifies the court in
35 writing of facts demonstrating that, due to circumstances beyond
36 the regional center's control, the placement cannot be made prior
37 to expiration of the extension, and the court determines that good
38 cause exists, the court may grant one further extension of up to 30
39 days. The court may also issue any orders the court deems
40 appropriate in order for necessary steps to be taken to ensure that

1 the individual can be safely and appropriately transitioned to the
2 community in a timely manner. The required notice shall state
3 facts demonstrating that the regional center has made significant
4 progress implementing the plan described in clause (v) of
5 subparagraph (C) of paragraph (9) of subdivision (a) of Section
6 4648 and that extraordinary circumstances exist beyond the
7 regional center’s control that have prevented the plan’s
8 implementation. This paragraph does not preclude the individual
9 or any person acting on their own behalf from making a request
10 for release pursuant to Section 4800, or counsel for the individual
11 from filing a petition for habeas corpus pursuant to Section 4801.
12 Notwithstanding subdivision (a) of Section 4801, for purposes of
13 this paragraph, judicial review shall be in the superior court of the
14 county that issued the order of commitment pursuant to this section.

15 *SEC. 75. Section 15610.63 of the Welfare and Institutions Code*
16 *is amended to read:*

17 15610.63. “Physical abuse” means any of the following:

- 18 (a) Assault, as defined in Section 240 of the Penal Code.
- 19 (b) Battery, as defined in Section 242 of the Penal Code.
- 20 (c) Assault with a deadly weapon or force likely to produce
21 great bodily injury, as defined in Section 245 of the Penal Code.
- 22 (d) Unreasonable physical constraint, or prolonged or continual
23 deprivation of food or water.
- 24 (e) Sexual assault, that means any of the following:
 - 25 (1) Sexual battery, as defined in Section 243.4 of the Penal
26 Code.
 - 27 (2) Rape, as defined in Section 261 of the Penal Code.
 - 28 (3) Rape in concert, as described in Section 264.1 of the Penal
29 Code.
 - 30 ~~(4) Spousal rape, as defined in Section 262 of the Penal Code.~~
 - 31 ~~(5)~~
 - 32 (4) Incest, as defined in Section 285 of the Penal Code.
 - 33 ~~(6)~~
 - 34 (5) Sodomy, as defined in Section 286 of the Penal Code.
 - 35 ~~(7)~~
 - 36 (6) Oral copulation, as defined in Section 287 or former Section
37 288a of the Penal Code.
 - 38 ~~(8)~~
 - 39 (7) Sexual penetration, as defined in Section 289 of the Penal
40 Code.

1 ~~(9)~~
2 (8) Lewd or lascivious acts as defined in paragraph (2) of
3 subdivision (b) of Section 288 of the Penal Code.

4 (f) Use of a physical or chemical restraint or psychotropic
5 medication under any of the following conditions:

- 6 (1) For punishment.
- 7 (2) For a period beyond that for which the medication was
- 8 ordered pursuant to the instructions of a physician and surgeon
- 9 licensed in the State of California, who is providing medical care
- 10 to the elder or dependent adult at the time the instructions are
- 11 given.

12 (3) For any purpose not authorized by the physician and surgeon.

13 *SEC. 76. No reimbursement is required by this act pursuant*
 14 *to Section 6 of Article XIII B of the California Constitution because*
 15 *the only costs that may be incurred by a local agency or school*
 16 *district will be incurred because this act creates a new crime or*
 17 *infraction, eliminates a crime or infraction, or changes the penalty*
 18 *for a crime or infraction, within the meaning of Section 17556 of*
 19 *the Government Code, or changes the definition of a crime within*
 20 *the meaning of Section 6 of Article XIII B of the California*
 21 *Constitution.*

22 ~~SECTION 1. Chapter 34 (commencing with Section 7599.100)~~
23 ~~is added to Division 7 of Title 1 of the Government Code, to read:~~

24
25 ~~CHAPTER 34. CALIFORNIA PARTNERSHIP FOR THE SAN JOAQUIN~~
26 ~~VALLEY ACT OF 2021~~

27
28 ~~7599.100. The chapter shall be known, and may be cited, as~~
29 ~~the California Partnership for the San Joaquin Valley Act of 2021.~~

30 ~~7599.101. (a) (1) The California Partnership for the San~~
31 ~~Joaquin Valley established by Executive Order S-5-05, and~~
32 ~~continued by Executive Orders S-22-06, S-17-08, and S-10-10, a~~
33 ~~public-private partnership, is hereby continued in existence.~~

- 34 ~~(2) The partnership shall include the following counties:~~
- 35 ~~(A) The County of Fresno.~~
 - 36 ~~(B) The County of Kern.~~
 - 37 ~~(C) The County of Kings.~~
 - 38 ~~(D) The County of Madera.~~
 - 39 ~~(E) The County of Merced.~~
 - 40 ~~(F) The County of San Joaquin.~~

1 ~~(G) The County of Stanislaus.~~

2 ~~(H) The County of Tulare.~~

3 ~~(b) For purposes of this chapter:~~

4 ~~(1) “Board” means the board of directors set forth in subdivision~~
5 ~~(d).~~

6 ~~(2) “Partnership” means the California Partnership for the San~~
7 ~~Joaquin Valley.~~

8 ~~(3) “San Joaquin Valley” means the area comprised of all of~~
9 ~~the counties set forth in paragraph (2) of subdivision (a).~~

10 ~~(e) The purpose of the partnership shall be to support regional~~
11 ~~collaboration among individuals and public and private entities~~
12 ~~committed to improving the quality of life in the San Joaquin~~
13 ~~Valley.~~

14 ~~(d) (1) The partnership shall be governed by a board of directors~~
15 ~~that shall consist of the following members:~~

16 ~~(A) A board chair and two deputy chairs appointed by the~~
17 ~~Governor. The board chair and deputy chairs shall be voting~~
18 ~~members of the board. These members shall be appointed from~~
19 ~~the following:~~

20 ~~(i) One member shall be a representative from a state agency.~~

21 ~~(ii) One member shall be a representative from a local agency~~
22 ~~within the counties set forth in paragraph (2) of subdivision (a).~~

23 ~~(iii) One member shall be a representative from the private~~
24 ~~sector whose residence and place of employment is within one or~~
25 ~~more of the counties set forth in paragraph (2) of subdivision (a).~~

26 ~~(B) Representatives from six stakeholder groups shall serve as~~
27 ~~voting directors, appointed by the Governor, as follows:~~

28 ~~(i) Eight state government directors representing various state~~
29 ~~agencies shall serve as ex officio voting directors.~~

30 ~~(ii) Eight local government directors, one from each of the eight~~
31 ~~counties set forth in paragraph (2) of subdivision (a). These~~
32 ~~directors shall be appointed by the Governor from lists of~~
33 ~~candidates nominated by each of the eight corresponding councils~~
34 ~~of governments. The nominees from each council of governments~~
35 ~~shall be made from among the mayors and members of city~~
36 ~~councils representing cities located within the county and members~~
37 ~~of board of supervisors of the county. Each council of governments~~
38 ~~shall submit a list to the Governor containing three candidates.~~

39 ~~(iii) Eight private sector directors, one from each of the eight~~
40 ~~counties set forth in paragraph (2) of subdivision (a).~~

1 ~~(iv) Five liaisons to government agencies and commissions,~~
2 ~~which shall be a resident of one of the eight counties set forth in~~
3 ~~paragraph (2) of subdivision (a), and who serve on one of the~~
4 ~~following state agencies and commissions:~~
5 ~~(I) The State Air Resources Board.~~
6 ~~(II) The California Transportation Commission.~~
7 ~~(III) The California Workforce Development Board.~~
8 ~~(v) Twelve representatives of consortia, who shall be~~
9 ~~representatives of regional consortia of existing organizations~~
10 ~~within the counties set forth in paragraph (2) of subdivision (a).~~
11 ~~The regional consortia representatives shall be nominated by the~~
12 ~~board for consideration of appointment by the Governor.~~
13 ~~(vi) Not more than five directors with specialized expertise,~~
14 ~~who shall be individuals with specialized subject matter expertise~~
15 ~~and knowledge of San Joaquin Valley issues recommended by the~~
16 ~~board chair.~~
17 ~~(C) Every member of the Legislature and the United States~~
18 ~~Congress that represents the counties set forth in paragraph (2) of~~
19 ~~subdivision (a) shall be ex officio nonvoting members.~~
20 ~~(2) (A) Voting directors shall serve at the pleasure of the~~
21 ~~Governor.~~
22 ~~(B) Ex officio nonvoting directors shall not serve for a term and~~
23 ~~shall not be subject to term limits.~~
24 ~~(C) (i) The terms of service for voting directors shall be three~~
25 ~~years and for no more than three terms, including partial terms.~~
26 ~~(ii) The remaining term of office for any director, other than~~
27 ~~the board chair and deputy chairs, serving upon the effective date~~
28 ~~of the act adding this chapter shall be determined based upon the~~
29 ~~terms of office for that director that were effective on January 1,~~
30 ~~2019.~~
31 ~~(iii) In the event of a vacancy of a voting member of the board,~~
32 ~~an acting director may be appointed by the board to serve with full~~
33 ~~voting rights until the Governor has appointed a new director. The~~
34 ~~Governor's replacement appointee shall serve for a full term, unless~~
35 ~~otherwise removed by the Governor.~~
36 ~~(D) (i) Notwithstanding subparagraphs (A) and (C), a director~~
37 ~~may be removed at the discretion of the Governor.~~
38 ~~(ii) A director who fails to attend 50 percent or more of the~~
39 ~~meetings of the board in any 12-month period is subject to removal~~
40 ~~from the board.~~

1 7599.102. ~~(a) (1) Meetings of the board shall be presided over~~
2 ~~by the chair.~~

3 ~~(2) In the absence of the chair, one of the two deputy chairs~~
4 ~~shall preside, as determined by the chair.~~

5 ~~(3) A majority of the voting directors shall constitute a quorum~~
6 ~~for the transaction of business. Ex officio nonvoting members shall~~
7 ~~not be counted for purposes of determining whether a quorum has~~
8 ~~been achieved.~~

9 ~~(4) All votes shall be recorded and available for inspection by~~
10 ~~the public. Every decision made by a two-thirds vote of directors~~
11 ~~participating in a meeting in which a quorum has been constituted~~
12 ~~shall be regarded as an act of the board.~~

13 ~~(b) The California State University, Fresno Foundation~~
14 ~~(94-6003272), Cost Center 340675, may continue to receive and~~
15 ~~administer appropriations on behalf of the partnership.~~

16 ~~(e) The board may appoint an executive committee, comprised~~
17 ~~of the chair, the two deputy chairs, and up to four additional board~~
18 ~~members appointed by the chair, and delegate to the committee~~
19 ~~any of the authority of the board except for any final action on~~
20 ~~matters which, under the Nonprofit Public Benefit Corporation~~
21 ~~Law (Part 2 (commencing with Section 5110)) of Division 2 of~~
22 ~~Title 1 of the Corporations Code, also requires approval of a~~
23 ~~majority of all directors. The board may also appoint other~~
24 ~~committees as appropriate.~~

25 ~~(d) The partnership shall have the following duties:~~

26 ~~(1) Identification of projects and programs that will best utilize~~
27 ~~public dollars and most quickly improve the economic vitality of~~
28 ~~the San Joaquin Valley, especially those that leverage federal,~~
29 ~~state, local, and private sector resources in a coordinated effort to~~
30 ~~address critical needs in the San Joaquin Valley.~~

31 ~~(2) Work with members of the state's congressional delegation~~
32 ~~and federal officials, including the federal Interagency Task Force~~
33 ~~for the Economic Development of the Central San Joaquin Valley,~~
34 ~~to gain federal support for projects identified by the partnership~~
35 ~~as critical to the region.~~

36 ~~(3) Partner with the University of California, the California~~
37 ~~State University, community colleges, and the state's other research~~
38 ~~and educational institutions, as well as private foundations to~~
39 ~~provide guidance, advice, and encouragement in support of studies~~
40 ~~of particular interest and importance to the San Joaquin Valley.~~

1 ~~(4) Review state policies and regulations to ensure they are fair~~
2 ~~and appropriate for the state’s diverse geographic regions, including~~
3 ~~the San Joaquin Valley, and determine whether alternative~~
4 ~~approaches can accomplish goals in less costly ways.~~

5 ~~(5) Recommend to the Governor changes that would improve~~
6 ~~the economic well-being of the San Joaquin Valley and the quality~~
7 ~~of life of its residents.~~

8 ~~(e) Commencing on January 1, 2023, and on or before January~~
9 ~~1 of each year thereafter, the partnership shall post a progress~~
10 ~~report on its internet website and submit a letter to the Legislature~~
11 ~~informing the Legislature that the progress report has been posted.~~

12 ~~SEC. 2. The Legislature finds and declares that a special statute~~
13 ~~is necessary and that a general statute cannot be made applicable~~
14 ~~within the meaning of Section 16 of Article IV of the California~~
15 ~~Constitution because of the unique challenges faced by the San~~
16 ~~Joaquin Valley. The Legislature finds and declares that continuing~~
17 ~~the California Partnership for the San Joaquin Valley will aid in~~
18 ~~addressing the needs of the San Joaquin Valley, including areas~~
19 ~~where the San Joaquin Valley is underserved.~~

From: [Donovan, Dominica \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Stefani, Catherine \(BOS\)](#); [Mullan, Andrew \(BOS\)](#); [Falzon, Frankie \(BOS\)](#)
Subject: D2 Introductions
Date: Tuesday, June 22, 2021 4:03:50 PM
Attachments: [200519 - Leg Ver1.pdf](#)
[06222021 - Introduction Form - Stefani - Reactivate File No 200519.pdf](#)
[06222021 - Introduction Form - Stefani - Support for AB 1171.pdf](#)
[06222021 - Stefani - Resolution Supporting AB 1171.docx](#)
[200519 - Leg Dig Ver1.pdf](#)

Dear Clerk Staff:

Please see the attached e-copies of two introductions from our office today. I have delivered hard copies as well.

One is a request to reactivate BOS File No. 200519.

The other is a resolution and we are requesting that this matter be referred without reference to committee and, we are confirming that this matter is routine, not contentious in nature, and of no special interest. The League of Cities California has not taken a position on the matter, nor has the California State Association of Counties.

Thank you!

Dominica Donovan

Legislative Aide

Office of Supervisor Catherine Stefani

City and County of San Francisco

415-554-7752

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor: